



(Ireland.)



A

B I L L

To promote the Drainage of Lands, and Improvement of Navigation and Waterpower in connexion with such Drainage, in Ireland.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WH^{EREAS} an Act was passed in the first and second year of the reign of King WILLIAM the Fourth, intituled, "An Act to empower Landed Proprietors in Ireland to sink, embank and remove Obstructions in Rivers :—"

Preamble :
1 & 2 W.
c. 67.

- 5 And whereas it is expedient that further provisions should be made for promoting the Drainage of lands in Ireland, and the improvement of Navigation and Waterpower in connexion with Drainage; ~~It~~ *it* therefore ~~Enacted~~, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and
- 10 Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the *passing of this Act*, any person interested in any portion of any tract of land liable to be flooded or injured by water, which may be capable of being drained, or the drainage whereof may be capable of being improved, shall be at
- 15 liberty to apply by a memorial in writing to the Commissioners of Public Works in Ireland, stating the nature and extent of the lands so liable to be flooded or injured by water, and praying that the same may be drained, or that the drainage thereof may be improved under or by virtue of the provisions of this Act.

1.
Any person interested in any land liable to be flooded, may present Memorial to the Commissioners of Public Works, praying that same may be drained under the provisions of this Act.

3.
Any person
interested in
any river near
to any such
land, may
present Me-
morial, pray-
ing that the
navigation
of such
river may be
improved.

And be it Enacted, That from and after the passing of this Act, any person interested in any river within, adjacent or near to any such tract of land as aforesaid, and which river, or any part thereof, may be capable of being rendered navigable, or the navigation whereof may be capable of being improved in connexion with drainage, shall be at liberty to apply by a memorial in writing to the said Commissioners, stating the locality and extent of such river, and praying that the same, or such part thereof, may be improved in conjunction with the Drainage of the land adjacent or near thereto, under or by virtue of the provisions of this Act.

3-
Grand Jury
may present
Memorial
when naviga-
tion may be
effected or
improved.

And be it Enacted, That it shall be lawful for the Grand Jury of the county, in which any such river as aforesaid or any such part thereof shall be situate, to present or cause to be presented to the said Commissioners any such memorial as last hereinbefore is mentioned, if they shall previously pass a resolution for that purpose: Provided always, That no such memorial shall be so presented, and no such resolution shall be passed, unless *One Month* at least before the meeting of such Grand Jury a notice, signed by a cess-payer of such county, specifying that it is intended to bring under the consideration of such Grand Jury the propriety of presenting such memorial, shall be published in *Three successive impressions* of a newspaper circulating in such county, and *Two Days* before such meeting of such Grand Jury shall be posted at the usual places for posting Grand Jury notices in every barony in such county in which any such river or such part of a river proposed to be improved shall be situate.

4-
Where
Memorial
presented,
Commis-
sioners may
require a
deposit to be
made for de-
fraying pre-
liminary
expenses.

And be it Enacted, That in every case where any such memorial as aforesaid shall be presented, the said Commissioners shall require such a sum to be deposited in their hands by or on behalf of the person or Grand Jury who shall have presented any such memorial, as in the opinion of the said Commissioners shall be necessary and sufficient for defraying the expense of making the inquiries, inspection and report hereinafter mentioned, and shall also at the same time, or whenever afterwards it shall appear necessary for them so to do, require to be deposited in their hands by or on the part of such person or Grand Jury, such sum as in the opinion of the said Commissioners shall be necessary and sufficient for defraying the expenses of making the further surveys, schedules, maps, plans, drawings, sections and estimate hereinafter directed to be made, respecting the land or river proposed to be drained or improved respectively, and the works necessary for draining and improving the same, and for defraying the expenses of all other preliminary measures hereinafter directed to be taken for the purposes hereinafter expressed, previous to the actual commencement of any works under the provisions of this Act.

And

And be it Enacted, That it shall be lawful for any Grand Jury who shall present or cause to be presented such memorial as aforesaid, and they are hereby empowered (without application to Presentment Sessions) to present any sum which they shall think necessary for or towards providing the amount of such first deposit as aforesaid, or, if they shall think fit, for or towards providing the amount of both such deposits, such amount to be raised off such baronies and half baronies as shall be specified in such presentment, and to direct the Treasurer of the county, out of any public monies which he may have in his hands, to lodge with the said Commissioners such first deposit, or both such deposits, according as such Grand Jury shall direct in such resolution, and as the said Commissioners shall require, for defraying the expenses aforesaid; and such Treasurer shall make such deposit, and the amount so presented shall be raised and levied accordingly; and in case the deposit or deposits required by the said Commissioners shall not amount to the sum so presented, the surplus shall be applied as any other public monies of such county.

5-
Grand Jury may direct the Treasurer of the county to deposit the sum required to be deposited with the Commissioners.

And be it Enacted, That whenever any such memorial as aforesaid shall be presented to the said Commissioners, and the sum (if any) required to be deposited with them for the purposes aforesaid shall have been deposited accordingly, it shall be lawful for the said Commissioners and they are hereby required to direct some skillful engineer or other competent person to inspect, and if the said Commissioners shall deem fit, to make a survey of, the land or river referred to in such memorial, or of any other land or river of which they shall deem it necessary for the purposes aforesaid that a survey should be made, or to examine any survey already made thereof, which the said Commissioners shall think sufficient, and to inquire into and ascertain the present state of such land or river, and the capacity of the said land for improvement by drainage, and the probable increase in the value of such land when so improved, and also the capacity of such river for improvement, and further to ascertain whether any existing navigation would be injured by the works necessary to be executed for drainage, or whether any useful or necessary navigation would or might be effected or improved either immediately or remotely in conjunction therewith, and whether it shall be necessary or expedient for the execution of such works to purchase, remove, injure or alter any weir, dam, mill, factory or other building or property, and the probable expenses thereof, and whether any and what improvement would or might be effected in any existing waterpower, and whether any new waterpower would or might be created in conjunction with such works, and whether, for the prevention of sudden floods and the preservation of surplus water for the supply of towns, mills, factories or navigation, or for the irrigation of or the warping or depositing soils by means of water on any lands where same shall be a beneficial manurance, that any and what reservoirs should

6.
Commissioners may appoint person to inspect the land or river, and to report thereon.

should be constructed ; and such engineer or other person shall report to the said Commissioners the nature, extent and estimated expense of the works to be undertaken for the purposes aforesaid, and the lands, mills, factories, weirs and other property to be affected by such works, and the benefit or injury likely to arise to such lands, mills, factories, weirs and other property respectively from such works.

7-
Commissioners, &c.
may enter
lands for the
purpose of
survey or
inquiry.

And be it Enacted, That for the purposes of any inspection, survey or inquiry which shall be directed to be made, or shall be necessary under any of the provisions of this Act, it shall and may be lawful for the said Commissioners, by themselves, their surveyors, engineers, agents, officers and workmen, to enter upon any lands or premises in any district within which it is proposed that any works shall be executed under this Act, or any lands and premises adjoining thereto, and, if necessary, to dig or bore therein, and also to examine any weir, sluice or floodgate, erected in or upon any river or stream which it shall seem to them to be necessary to examine, and to open or raise any such floodgate or sluice for the purposes of any such inquiry, and to make any soundings or bore the bed or channel of any part of such river, or any mill-course connected therewith, making reasonable compensation for any damage done thereby.

8.
If Commissioners think
it inexpedient
to execute the
necessary
works, they
are to decide
accordingly.

And be it Enacted, That in every case where upon the report of such engineer or other person being made, the said Commissioners shall consider that the benefits likely to arise therefrom would not be commensurate with the probable costs of the necessary works, or where from any other cause or circumstance the said Commissioners shall deem it inexpedient that the land or river referred to in any such memorial as aforesaid should be drained or improved under the provisions of this Act, the said Commissioners shall decide accordingly, and shall transmit to the person or Grand Jury who shall have presented such memorial relating thereto, a notification in writing of their determination, together with a copy of such report.

9-
If the Com-
missioners
approve of the
works pro-
posed, they
shall cause
copies of the
Report to be
deposited for
public inspec-
tion.

And be it Enacted, That if on the report of such engineer or other person the said Commissioners shall consider it expedient that the necessary works should be undertaken, they shall notify in writing to the person, or to the secretary of the Grand Jury who shall have presented such memorial as aforesaid, their approval of the matter of such memorial, and shall cause copies of the report to be made, and shall deliver a copy thereof to any person who shall apply for the same, on payment of the reasonable expense of preparing such copy ; and the said Commissioners shall also cause copies of such report to be deposited with the Clerk of the Peace (and, where any navigation is proposed to be improved by such works, with the secretary of the Grand Jury) of every county in which the land or river, or the part thereof

thereof proposed to be drained or improved, shall be situate, and also in such and so many convenient places in the district where the said works are proposed to be executed, or in the vicinity thereof, as they the said Commissioners shall think necessary, there to remain open for public inspection at all reasonable times for Three successive weeks; and they shall cause previous notice of the places where such copies are deposited to be given by public advertisement in some newspaper circulating in such county, and otherwise, as to them shall seem expedient.

And be it Enacted, That in every case where, upon the report of such engineer or other person being made as aforesaid, the said Commissioners shall consider that the advantages likely to be derived from the drainage or improvement of the land or river referred to in any such memorial would be commensurate with the probable costs of the necessary works, the said Commissioners, if they shall deem it expedient, shall cause to be made such surveys as they may deem necessary of the land proposed to be drained or improved, and of the river proposed to be improved in connexion with such drainage, with proper schedules, maps, plans and sections, describing the district within which it shall be proposed to put the powers of this Act into execution, and showing the land and other property to be drained or improved by such drainage, and showing in one or more of such schedules the proprietors, lessees and occupiers thereof, and the lands or other property required to be taken for, or likely to be injured by, the proposed works, and the proprietors, lessees and occupiers thereof, and showing, so far as may be possible, the line, course and situation of the streams, watercourses, drains, rivers and lakes necessary to be cleared, scoured or embanked, and the requisite variations, divisions, abridgments or enlargements of the same, and the direction and extent of any new drains, watercourses or works necessary to be made, and the land in and through which the same are to be made, and they shall also cause to be made an estimate of the expense of the proposed works, including in such estimate the probable amount of money payable as compensation in respect of any injury likely to be occasioned by such works, or for the purchase of any land, houses, fisheries, weirs, mills or other property required to be taken or purchased for the purpose of such works, and other miscellaneous expenses likely to be incurred; and they shall also cause the then actual value of the land to be drained or improved by drainage by the proposed works to be ascertained in such manner and by such means as they shall think proper, and the probable increase in such value by the proposed works: and such actual value and estimated increase shall be stated in the said schedules, and also the proportions in which such lands shall contribute towards the payment of the costs of the proposed works, specifying such proportions in the ratio of the estimated increase in the value of such lands; and in every case where any such river or such part of a river as aforesaid shall

10.
Commissions to
cause surveys,
&c. to be
made.

be proposed to be improved, every such estimate shall also and separately specify the amount of the costs which will be incurred in the execution of such of the proposed works as shall be necessary for the improvement of such river or part of a river, and the district likely to be benefited by such improvement, and the baronies, half baronies or townlands in such district, and the proportions in which such baronies, half baronies or townlands are likely to be benefited, and should contribute to such costs; and the said Commissioners shall cause to be made copies of the said schedules, maps, plans, sections and estimate, and shall cause such copies to be deposited with the Clerk of the Peace of the county in which such land or river or part of a river proposed to be drained or improved shall be situate, and in such convenient place as the said Commissioners shall think proper, within or in the immediate vicinity of the district in which such land or river or part of a river shall be situate, there to remain open for public inspection at all reasonable times for *Three* successive weeks; and all persons shall be at liberty to inspect and make copies of or extracts from the said schedules, maps, plans, sections and estimate, and copies thereof or extracts therefrom shall be made for any person who shall require the same, on payment of the costs of making such copies or extracts.

11.

A Notice shall be published and posted, stating that maps, &c. have been deposited.

And be it Enacted, That the said Commissioners shall cause a notice, stating the places in which copies of the said schedules, maps, plans, sections and estimate have been deposited as aforesaid, to be published in some newspaper usually circulated in the district in which the land or river or part of a river proposed to be drained or improved shall be situated, or in the immediate vicinity thereof, and also to be posted in the usual places for posting Grand Jury notices in or near such district; and in all cases where it shall be proposed that any river or part of a river shall be improved, a copy of such notice shall be served on the secretary of the Grand Jury of the county or counties in which such river or part of a river shall be situate; and in all cases where it shall be proposed to take or remove any mill or factory, or to lower, raise or modify any weir, dam or other work or obstruction connected with any mill or factory, a copy of such notice shall be served on the owner, lessee or occupier or person in charge of such mill or factory, or posted on the door or wall thereof, and by such notice all parties interested shall be required, on or before a day to be therein named, not sooner than *Thirty* Days from such publication and posting or service as aforesaid of such notice, to transmit to the secretary of the said Commissioners their objections to the said schedules, maps, plans, sections and estimate, and all other objections which such parties shall think fit to make with respect to any thing proposed to be done by the said Commissioners under the provisions of this Act.

And

And be it Enacted, That in every case in which it shall be proposed that any such river or part of a river as aforesaid should be improved, in conjunction with the drainage of the adjacent lands, it shall be lawful for the Grand Jury of the county, in which such river or part of a river may be situate, to appoint a committee, for the purposes hereinafter mentioned, consisting of Seven persons, each of whom shall be a member of such Grand Jury, or shall have served upon some former Grand Jury of such county, or shall be a Justice of the Peace of such county; and any Three of such committee shall form a quorum, and such committee shall have power to act until the appointment of any new committee by any subsequent Grand Jury of such county, which committee every subsequent Grand Jury of such county is hereby empowered to appoint.

12.
Grand Jury
may appoint
Committee.

And be it Enacted, That it shall be lawful for the committee which shall have been appointed by any such Grand Jury as aforesaid, to transmit to the said Commissioners such objections as such committee shall think proper to the said report, schedules, maps, plans, sections and estimate which shall have been deposited as aforesaid, and also to attend at the meeting or meetings to be convened by the said Commissioners under the provisions of this Act, and at such meeting or meetings to support such objections, or to make such other objections, as such committee shall think proper.

13.
Committee of
Grand Jury
empowered to
attend Meeting,
and to
object to the
proposed
works for
navigation.

And be it Enacted, That the said Commissioners shall, either by a notice to be published and posted as aforesaid, or by a subsequent notice to be published and posted in like manner, call a public meeting of all persons interested in the land or river or part of a river proposed to be drained or improved, or likely to be affected by any of the works proposed to be executed for such drainage or improvement, to be held on such day subsequent to the expiration of such period of Thirty Days, and at such convenient place within the district wherein such land or river or part of a river shall be situate, or in the vicinity thereof, as the said Commissioners shall think fit, such day and place to be specified in such notice.

14.
Meeting of
the persons
interested to
be called by
public notice.

And be it Enacted, That at the time and place named in such notice as aforesaid, the said Commissioners shall attend, and shall have power to adjourn from time to time, or hold such new meeting as they may find necessary, and shall inquire into the correctness of the schedules containing the names of such proprietors and occupiers as aforesaid, and shall hear all such objections as shall have been or shall then be made by any person complaining that any omission or misdescription has been made in such schedules, or any name improperly inserted therein, and shall hear all such other objections as shall have been or shall be then and there made to

15.
Proceedings
at Meeting.

the schedules, maps, plans, sections and estimate which shall have been made under the provisions hereinbefore contained; and the said Commissioners shall also hear and inquire on oath or otherwise into all such objections to the said proposed works as shall have been or shall then and there be made, and also all objections to the stated value of the land, or to the stated probable increase in such value, as the same shall have been respectively set forth in the said schedules, and also into all such objections as shall have been made, or shall then and there be made by or on behalf of the owner, lessee or occupier or other person interested in any mill or factory likely to be affected by any thing proposed to be done by the Commissioners under any of the provisions of this Act; and after having considered all such objections as aforesaid, they shall cause such alterations (if any) as they may deem expedient to be made in the said schedules, maps, plans, sections and estimate, and shall sign the same; and the said Commissioners shall receive and hear all such evidence as may be offered to them in relation to the several matters aforesaid, and shall give to the persons present at such meeting full information respecting the nature and extent of the proposed works, and shall take or receive the assents, in writing, of the proprietors of the lands comprised in such schedules, to the execution of the proposed works; and such schedules, maps, plans, sections and estimates so signed by the said Commissioners, and the assents which shall be given, shall be preserved by the said Commissioners in their office in Dublin, and a copy or copies thereof shall be deposited with the Clerk of the Peace of each county wherein such works are proposed to be executed, and shall be open to public inspection at all reasonable times, on payment of a fee of *One Shilling*, and shall, when required by the secretary of the Grand Jury of any such county, be produced for inspection at any Presentment Session to be held within such county.

16.

Presentment Session and Grand Jury may approve of Works, and undertake to pay the costs thereof.

And be it Enacted, That in every case in which it shall be proposed that any river or part of a river should be improved as aforesaid, it shall be lawful for the Presentment Session of each barony or half barony within the district likely to be benefited by the improvement of such river or part of a river, at any time previous to, or within *Twelve Months* after the time of holding such meeting as last aforesaid, to make a presentment in the form in the Schedule to this Act annexed, approving of the proposed works and consenting that the proportion of the costs of so much of the said works as shall relate to the improvement of the navigation of such river, which shall be assessed upon such barony or half barony, or any townland or townlands under the provisions of this Act, shall be raised off such barony, half barony or townlands respectively; and such presentment shall be delivered to the secretary of the Grand Jury of such county, and shall be laid by him before the Grand Jury of the said county at

the

the next ensuing assizes, together with such report, schedules, maps, plans, sections and estimates, and it shall be lawful for such Grand Jury to allow or disallow the same; and it shall be lawful for any person paying Grand Jury Cess for such county, to traverse any such presentment, and such traverse shall be made and tried, and in all respects disposed of as any traverse of any presentment under any Act or Acts in force in Ireland relating to the presentment of public money by Grand Juries in Ireland; and all the provisions of any such Act or Acts, in relation to the traverse of any presentment, shall apply to such presentment so to be made under this Act, and to any traverse thereof to be so made as aforesaid.

And be it Enacted, That if any such Presentment Session and such Grand Jury as aforesaid shall refuse or neglect to pass such resolution as aforesaid, approving of the proposed works for the improvement of any such river or part thereof, and undertaking to pay such costs as last aforesaid, then it shall be lawful for any person whomsoever to guarantee or otherwise secure the payment of such costs to the said Commissioners.

17.
If Presentment Session and Grand Jury refuse or neglect, any person may guarantee the payment of such costs.

And be it Enacted, That no works shall be commenced for the drainage of any land under or by virtue of this Act, unless the proprietors of *Two-thirds* or more in extent of such land shall assent to the execution thereof in writing under their hands respectively, within such time as the said Commissioners shall appoint.

18.
No drainage Works to be commenced, unless proprietors of *Two-thirds* of the land assent.

And be it Enacted, That no works shall be commenced for the improvement of any such river or part of a river as aforesaid, under and by virtue of this Act, unless such resolution as hereinbefore mentioned shall be passed by the Presentment Session and Grand Jury, approving of the proposed works, and undertaking to pay the costs thereof, or unless some person shall guarantee or otherwise secure the payment of such costs; nor shall any such works be commenced, unless the proprietors of *Two-thirds* or more in extent of the land adjacent or near to such river, which land shall be proposed to be drained or improved as aforesaid, shall also assent to the execution thereof in writing under their hands respectively.

19.
No Works for improving any river to be commenced, unless Presentment Session and Grand Jury, or some person, will pay the costs thereof, nor unless *Two-thirds* of the proprietors of adjacent lands to be drained, assent.

And be it Enacted, That any person seized of or entitled to any portion of the land proposed to be drained or improved by drainage, in possession as tenant in fee-simple or in fee-tail, general or special, or by the courtesy, and also any person who shall be entitled under any will or settlement, or any other deed or instrument (except a grant or lease reserving rent or agreement in writing for such grant or lease) for his own life, or the life of any other person, or for years determinable on such life or lives, and also any person who shall be

20.
Who shall be drained proprietors.

entitled under any lease granted by a bishop or any collegiate or ecclesiastical body, or under any lease granted by any person having immediate or derivative title from or under any bishop or any collegiate or ecclesiastical body, which lease shall contain a tithes cotes covenant of renewal, and also any person who shall be entitled under any grant, lease or any other deed or assurance for an estate in fee, or for a term of years absolute, whereof *Forty Years* or more shall be unexpired, or for an estate or interest for any life or lives renewable for ever, or for any term or terms of years either absolute or determinable or renewable for ever, whether such last-mentioned person shall be entitled to any such estate, term or interest, either absolutely or as tenant in tail, or as quasi tenant in tail, or for his life, and also every feoffee or trustee of any such land, or of any such estate or interest therein as aforesaid, for charitable or other purposes, shall be deemed a proprietor of such land for the purposes of this Act; and in every case in which any person seised of or entitled to any such land for any such estate or interest as aforesaid, shall be an infant, feme covert, idiot or lunatic, the guardian of such infant, the husband of such feme covert, and the committee of the estate of such idiot or lunatic, shall, subject to the provisions hereinafter contained, be deemed a proprietor of such land for the purposes of this Act: Provided always, That no person shall be deemed a proprietor for the purposes of this Act for or by reason of any estate vested in him which shall have been created by way of mortgage, or for the purpose of securing the payment of any sum of money, but that the person who would be deemed a proprietor for the purposes of this Act, if such estate by way of mortgage for the security of money had not been created, shall, notwithstanding such mortgage or security, be deemed such proprietor as aforesaid: Provided also, That where several persons shall have, in any land so proposed to be drained, such estates or interests as would otherwise entitle them under the provisions aforesaid to be so deemed proprietors, such of the said persons shall be deemed and treated as a proprietor for the purposes of this Act, as shall be in actual occupation of the said land, or as shall have such estate or interest as aforesaid therein next to the estate or interest of the person in actual possession of such land.

21.
Persons entitled to certain interests, upon giving security to be deemed proprietors.

And be it Enacted, That at any time before such meeting as last aforesaid, or at any period within the time to be appointed as aforesaid, by the Commissioners for the receiving of assents, any person seised or possessed of any portion of the land proposed to be drained or improved, for any life or lives, or for any term of years determinable on any life or lives, or for any term of years absolute, whereof there shall be then *Seven Years* or more unexpired, who shall give sufficient security, either real or personal, to the said Commissioners, and in such sum of money as to them shall seem meet, for the payment of the sum or sums with which

which such portion of land shall become chargeable for or in respect of the costs and expenses of the works proposed to be executed, shall be deemed a proprietor of such land for the purposes of this Act: Provided always, That in case several such persons shall specify their desire to become assenting proprietors, and shall show to the satisfaction of the said Commissioners that they respectively are able to give such security as shall be so required, preference shall be given to such of the said persons as shall be in actual occupation of the lands in respect of which he shall so signify such desire as aforesaid; and in case the person so in occupation shall not so signify such desire, or shall not show that he is able to give such security, then the person who shall have the next estate or interest in such lands greater than that of such occupier or occupiers thereof, and shall so signify such desire, and show that he is able to give such security, shall be preferred, and so on, that person (if there be more than one signifying such desire, and so showing that they are able to give such security) being always to be preferred who shall have, among such persons as last aforesaid, such estate or interest as aforesaid nearest in order to and greater than that of the occupier of such lands: Provided also, That in case any such person shall become such assenting proprietor, the assent of any other person shall not be taken into account in respect of such lands.

Provided always, and be it Enacted, That it shall and may be lawful for any feoffee or trustee for charitable or other purposes, and also for any guardian, husband or committee of any infant, feme covert, or idiot or lunatic, respectively (on behalf of their respective infants, idiots, wives or lunatics), to apply, if they shall think fit, in a summary way, by petition, to Her Majesty's Court of Chancery or Exchequer in Ireland, for leave to assent to the execution of any works proposed to be done under the provisions of this Act (provided, that in case of any infant, idiot or lunatic such petition shall be presented to the Court of Chancery only); and the Court shall have power to inquire into the propriety of giving such assent, and to make such order on the petition, and as to the costs thereof, as to the Court shall seem meet; and if the Court shall authorize any such assent being given, then it shall be lawful for the person who shall have presented the petition to give such assent, and the same shall be as binding and effectual, to all intents and purposes whatsoever as if the person giving the same had been the actual proprietor of the lands in respect of which such assent shall be given.

22.
Trustees, &c.
may apply
to Court of
Chancery for
leave to as-
sent.

And be it Enacted, That joint tenants, tenants in common, and co-parcenars jointly interested in any portion of land proposed to be drained or improved, shall, in respect of the land in which they are so interested, be accounted as one person, and the concurrence of both or all of them shall be necessary for the purpose of giving such assent as aforesaid.

23.
Joint tenants
to be account-
ed as one
person.

24.
Concurrence
of lessee hold-
ing for a life
or lives, or for
a residue of a
term of years
of which not
less than
Seven Years
are unexpired,
to be neces-
sary in certain
cases.

And be it Enacted, That where any portion of land proposed to be drained or improved by drainage shall, at the time hereby appointed for the giving such assent as aforesaid, be in the actual occupation of any person under any grant, lease or agreement in writing for a lease, for a life or lives, or for a term of years, whereof more than Seven Years shall be then unexpired, and in respect whereof such person shall not be qualified or entitled to give such assent, then the concurrence of such person shall be necessary for the purpose of giving such assent as aforesaid, in respect of the lands comprised in such grant, lease or agreement.

25.
Assistant
Barrister may
be directed
to inquire
whether the
 requisite
 number of
 proprietors
 assent to pro-
 posed works.

And be it Enacted, That it shall be lawful for the said Commissioners, if they shall so think fit, to direct an Assistant Barrister of any county in Ireland to inquire whether the persons who shall have assented to the execution of any works proposed to be executed are really the proprietors of Two-thirds in extent of the land proposed to be drained or improved by drainage, and such Assistant Barrister is hereby authorized and directed to make such inquiry, and to summon before him and examine all such persons, and to require the production of all such documents, as he shall think necessary, and he shall report his determination to the said Commissioners.

26.
Where the
weir, dam,
 &c. of a mill
 or factory
 causes occa-
 sional flood-
 ing, the Com-
 missioners
 shall have
 power to con-
 struct works
 for the dis-
 charge of the
 surplus water,
 and shall de-
 clare the level
 of the water
 at which the
 working
 water-power
 shall be se-
 cured.

And be it Enacted, That in cases where, from the damming up of any river or stream by the weir, dam or other work or obstruction of any mill or factory, occasional damage may arise by the overflowing of such river or stream, it shall be lawful for the said Commissioners to construct any reservoir, embankment, tunnel or back-drain, and to erect any floodgates, sluices, over-falls or other works, and to make any alterations in the dams, weirs, works, obstructions or watercourses connected with such mills or factories which shall be necessary to prevent the ill consequences of sudden or occasional floods in such river or stream, and to provide for the more safe and easy discharges of surplus water therefrom, but always so that the supply of water sufficient for securing the amount of working water-power theretofore enjoyed by any such mill or factory shall not be thereby lessened; and the level of the water at which such amount of working water-power shall be secured, shall be previously inquired into and ascertained by the said Commissioners; and all persons interested in such mill or factory or in any land to be drained as aforesaid, shall be at liberty to object to the level which shall be so ascertained, either at the meeting hereinafter directed to be held, or at any meeting to be held for the purpose; and the said Commissioners shall then and there hear and decide upon all such objections, and declare what such level shall be, and shall state the same in the declaration hereinafter directed to be made by the said Commissioners; and the said Commissioners, in case they shall so interfere with any such mill or factory, shall also cause a stone cill or gauge

gauge to be erected at some one floodgate, sluice or other convenient position connected with such mill or factory, on which shall be marked in clear and legible figures or letters the due and proper level of water ascertained and declared as aforesaid.

5 And be it Enacted, That if any weir, dam or other work or obstruction connected with any mill or factory shall cause the flooding of any lands included in any district in which this Act shall be brought into operation, situate near the stream or river flowing to or over such weir, dam or other work or obstruction, so as thereby to injure such
10 lands, or prevent their improvement to an extent in value equivalent to or exceeding the then present value of such mill or factory, and if such flooding cannot, in the opinion of said Commissioners, be remedied or prevented by means of such works as last aforesaid, it shall be lawful for the said Commissioners, so far as shall be necessary for
15 remedying or preventing such flooding and injury, or such impediment to the improvement of such lands as aforesaid, to alter or modify any such dam, weir, work or obstruction, or the position thereof, and to raise or lower or alter any water-wheel or any machinery immediately attached thereto, and the levels of the head and fall of any water to
20 such mill or factory: Provided always, That in all cases where any such raising, lowering, modification or alterations as aforesaid shall be effected, the amount of working water-power of such mill or factory or water-wheel shall not be lessened thereby, and that all such additional wheels, fittings, buildings, machinery, sluices, cuts, dams, gates, and all other such works and things as shall be suited to such raising,
25 lowering, modification and alteration respectively or necessary or proper and sufficient for the due, convenient and permanent working of such mill or factory, with such amount of working water-power, shall be made, provided, erected, fitted and placed by such Commissioners in a permanent and workmanlike manner, and with proper and durable materials, and that such Commissioners and the Trustees to be appointed as hereinafter mentioned, shall (save as hereinafter provided) from time to time, and at all times, uphold, maintain and keep in repair all such buildings, sluices, cuts, dams and gates as shall
30 be so made, provided, erected or placed, or as shall be necessary or proper and sufficient for the purposes aforesaid; and that the expense of so making, providing, erecting, fitting, placing and (save as hereinafter provided) of maintaining, repairing and upholding the same, shall be raised, levied and defrayed out of the funds and rates which
35 shall be provided or imposed in relation to any lands in such district under the provisions of this Act: And provided also, That nothing in this Act contained shall be deemed or construed to confer on any owner or occupier of any mill or factory any right to any water in respect to such mill or factory to which he would not be entitled if this Act had not been passed.

27.
Where the weir, dam, &c. of a mill or factory by flooding causes injury, or prevents improvement to an extent equivalent to the value of such mill or factory, all necessary alterations may be made therein, if the water-power be not lessened thereby.

28.

Where the weir, dam, &c. of any mill or factory causes injury, or prevents improvements to an extent in value three times greater than the value of such mill or factory, some may be taken by the Commissioners at a valuation as any land under this Act.

And be it Enacted, That if any weir, dam, or other work or obstruction belonging to or connected with any mill or factory shall cause the flooding of any such lands included in any such district as as aforesaid, so as thereby to injure such lands, or prevent their improvement to an extent in value equivalent to or exceeding Three times the then present value of such mill or factory, it shall be lawful for the said Commissioners, in case they shall not agree for the purchase of such mill or factory, weir, dam and other work, and in case it shall be necessary that same shall be taken by said Commissioners for the purpose of draining or improving by drainage such lands, to proceed to take same, and to award compensation for the value thereof, in like manner and subject to the like appeal as by this Act provided in reference to any land to be taken by the said Commissioners for the purpose of any works to be executed under this Act.

29.

Provided that before any mill or factory shall be interfered with, the declaration shall contain the necessary statements with respect thereto.

Provided always, and be it Enacted, That before the said Commissioners shall proceed to take any such mill or factory, and the works connected therewith, as aforesaid, or to effect any such constructions, erections, lowering, raising, modification or alteration as aforesaid, the said Commissioners shall insert in the declaration, which they are hereinafter required to make, such statement with respect to the several matters aforesaid as hereinafter directed to be made in cases where any mill or factory is proposed to be interfered with.

30.

Commissioners shall make declaration;

And be it Enacted, That at or after the meeting hereinbefore directed to be convened by the said Commissioners, if, or when and so soon as the proprietors of Two-thirds or more in extent of the land proposed to be drained or improved by drainage shall have assented in writing to the execution of the proposed works, the said Commissioners shall make and sign a declaration, describing the land proposed to be drained or improved, and declaring the then actual value thereof, and the estimated increase in such value by means of the proposed works, and the proportions with which such land shall be chargeable towards the costs of the proposed works, such proportions being fixed according to such actual value and such estimated increase as aforesaid; and also stating therein the names, additions and residences of the proprietors who shall have assented to the execution of the proposed works, and the land belonging to them respectively, and in respect of which they shall have so assented; and in such declaration shall also be described the river (if any) proposed to be improved, and the baronies, half baronies or townlands in the district likely to be benefited by the improvement thereof, and the proportions shall be thereby declared in which such baronies, half baronies and townlands will be so benefited; and in all cases wherein any mill or factory, or any weir, dam or other work or obstruction belonging to or connected with any mill or factory, shall cause flooding, so as thereby to injure or prevent

stating the names of assenting proprietors;

and in cases of navigation, the baronies, &c. benefited;

and in cases where injury is caused by any mill or

vent the improvement of such land as aforesaid, it shall be stated in such declaration that such mill or factory, or such weir, dam or other work or obstruction as aforesaid, causes the flooding whereby such injury is produced or improvement prevented, and whether
 5 such injury or prevention of improvement be to an extent in value less than, equivalent to, or exceeding, the then present value of such mill or factory, or equivalent to, or exceeding Three times such value thereof; and in case same shall be to an extent in value less than the then present value of such mill or factory, the level of the water at which
 10 the amount of working water-power theretofore enjoyed by such mill or factory can be secured, shall be stated in such declaration; and in case same shall be to an extent in value equivalent to, or exceeding, the then present value of, such mill or factory, the amount of working water-power shall be stated therein; and such declaration shall be
 15 printed, and copies thereof deposited with the Clerk of the Peace, and (when it is proposed that any navigation shall be improved by such works) with the secretary of the Grand Jury, of each county in which the land or river or any part thereof proposed to be drained or improved by drainage is situate, and also in such convenient places as the
 20 said Commissioners shall think fit; and in all cases where it is proposed to interfere with any mill or factory or any works or appurtenance thereof as aforesaid, the said Commissioners shall deliver or cause to be delivered to the owner or occupier of any such mill or factory, or to his clerk, agent or servant superintending the same, a copy or duplicate of
 25 such declaration as aforesaid, together with a written description of such part of the proposed works as shall be intended to be executed at or in respect of such mill or factory; and all persons may inspect and take extracts of or copies from such declaration; and all persons requiring copies of or extracts from such declaration, to be made by
 30 such Clerk of the Peace, shall have the same on payment of the costs thereof, not exceeding Two-pence for every Seventy-two words.

And be it Enacted, That the said Commissioners shall cause a notice, stating the places in which copies of such declaration have been deposited, to be published in some newspaper usually circulated in
 35 the district in which the land or river proposed to be drained or improved shall be situate, or in the immediate vicinity thereof, and also to be posted in the usual places for posting Grand Jury notices in every barony of the county in which any part of such district shall be situate; and each copy of such notice which shall be so posted shall have annexed thereto a list of the names, additions and residences of
 40 the proprietors who shall have so assented as aforesaid.

And be it Enacted, That if any person shall be aggrieved by the declaration which shall be so made by the said Commissioners, or by any thing contained therein or omitted therefrom, or by any other act, deed,

factory, &c. the amount of injury caused by same, and the restrictions under which same may be taken or interfered with.

Declaration is to be printed, published and deposited for public inspection;

and in cases of mills or factories, &c. a copy shall be served on the owners, &c. thereof.

31.
Notice to be given of the places where copies of the declaration shall be deposited.

32.
General Appeal to Assistant Barrister.

matter

matter or thing whatsoever, done or omitted to be done by the said Commissioners under or by virtue of the provisions hereinbefore contained, or any of them, it shall be lawful for such person to appeal against or in respect of such declaration, or any such act, deed, matter or thing, to the Assistant Barrister, at the first quarter sessions of the peace for the county wherein any part of the land or river proposed to be drained or improved shall be situate, which shall be holden next after the expiration of *Thirty-one* Days from the publication of such declaration, or from the time when the act, matter or thing shall be done, or the cause of complaint shall have arisen in respect of which such appeal shall be made; and the person so appealing, if there shall be sufficient time, shall give *Fourteen* Days' notice at least, in writing, of his intention to bring such appeal, and of the making thereof, to the said Commissioners, and within *Ten* Days after the date of such notice, enter into recognizance before some Justice of the Peace for such county, in the sum of *Thirty Pounds*, with Two sufficient sureties, each in a sum of *Fifteen Pounds*, conditioned to try such appeal, and to abide by or to submit to such order as shall be made thereon, and to pay such costs as shall be awarded by the Assistant Barrister at such quarter sessions, or any adjournment thereof; and for want of sufficient time for giving such notice previous to the next quarter sessions, then such appeal and under such recognizance may be made at the second general or quarter sessions to be holden for such county.

33.
Proceedings
before the
Assistant
Barrister.

And be it Enacted, That the Assistant Barrister at such first or second quarter sessions, or any adjournment thereof, upon due proof of such notice having been given as aforesaid, and of the entering into such recognizance, shall hear and determine the matter of such appeal, and make such written order or decision thereon as to him shall seem fit; and in all cases where it shall be proposed to interfere with any mill or factory or any works or appurtenance thereof, and the appeal shall have been brought by any person interested therein and in respect thereof, the said Assistant Barrister shall further inquire and determine, if required so to do, under which of the powers hereinbefore given it shall be lawful for the said Commissioners to proceed with respect to such mill or factory; and such Assistant Barrister may order the costs of any such appeal to be paid wholly or in part by the said Commissioners, or the party appealing; and if same shall be ordered to be paid by the party appealing, such Assistant Barrister may, by a warrant under his hand, direct same to be levied by a distress and sale of his goods and chattels: Provided always, That nothing herein contained shall be construed to authorize or empower any Assistant Barrister to make any order directing that the general execution of the proposed works shall not be proceeded with unless it shall appear before him that the proprietors as aforesaid of *Two-thirds* in extent of such lands

lands have not assented, as hereinbefore required, or to make any order affecting the peculiar mode of construction of any of the works which shall have been approved of by the said Commissioners (save so far as it may be necessary to modify the same in respect of such mill or factory or the works or appurtenances thereof), or to make any order affecting the costs of carrying the said proposed works into execution: And provided also, That in all such cases of appeal respecting mills or factories only as hereinbefore mentioned, if the said Commissioners or the party so appealing shall be dissatisfied with such decision of such Assistant Barrister, it shall be lawful for such Commissioners or party, within *One Month* after such decision, to apply by petition in a summary way to the Court of Chancery or Exchequer, by way of appeal against such decision, and such Court may direct the notes of the evidence taken on such hearing to be furnished by such Assistant Barrister, and shall make such written order thereupon, whether for a re-hearing before such Assistant Barrister or otherwise, as shall appear just: Provided also, That the proceedings on such petition shall not, in case the decision of such Assistant Barrister shall be in affirmance of such declaration, stay the prosecution of such works, but the Commissioners may proceed with the same, subject to such order of such Court respecting the prosecution, modification or stoppage of such works, or respecting such mill or factory, or for compensation to the party interested therein, or otherwise, as the Court may deem just; and such order shall be binding and conclusive on all persons whomsoever.

And be it Enacted, That when and so soon as all the several preliminary measures and proceedings hereinbefore directed to be taken and observed, including such appeal (if any) to the Assistant Barrister as aforesaid, shall have been taken, observed and disposed of, then the said Commissioners shall give a final notice that all the requisitions of this Act, with respect to the land or river proposed to be drained or improved have been duly complied with, and a copy of such notice, signed by the said Commissioners, shall be published in the Dublin Gazette, and in some newspaper usually circulated in the district wherein such land or river shall be situate, or in the vicinity thereof and shall be posted on the usual places for posting Grand Jury notices in the barony or baronies in which such district shall be situate.

And be it Enacted, That the publication of any such final notice shall in every case to which same may relate be deemed conclusive, (save in reference to such petition to the Court of Chancery or Exchequer), evidence that the several preliminary measures, proceedings and requisitions hereinbefore directed to be taken and observed, have been duly taken and observed; and after such publication it shall not be lawful for any person to question or appeal against or in respect of any thing whatsoever done or omitted to be done by the said Commissioners

34.
Commissioners to give a final notice that all the requisites of the Act have been complied with.

35.
Publication of notice to be conclusive.

under any of the provisions hereinbefore contained, save by such petition to the Court of Chancery or Exchequer as aforesaid.

36.
As to ex-
penses of
preliminary
proceedings.

And be it Enacted, That in every case where any such final notice shall be published as aforesaid, all the costs and expenses of the preliminary proceedings hereinbefore directed to be taken shall be considered as expenses incidental to the execution of the works proposed to be executed, and shall be provided for accordingly, and the sum of money (if any) deposited by or on behalf of the person by or on behalf of whom such memorial as aforesaid shall have been presented, shall be repaid to such person without deduction out of any monies which shall be raised by the said Commissioners under the provisions hereinafter contained; but if in any case the said Commissioners shall determine that it is inexpedient to drain or improve the land or river referred to in any such memorial, or if the necessary assents hereinbefore required to be obtained shall not be given to the execution of the proposed works, then and in any such case all expenses which shall have been incurred shall be defrayed out of the sum of money (if any) which shall have been deposited with the said Commissioners under the provisions in that behalf hereinbefore contained; and if such sum of money shall be insufficient to pay such expenses, then the balance thereof, or if no deposit shall have been made, then the whole of such expenses, as the case may be, shall be paid or payable by the person who shall have presented such memorial as aforesaid, and the same shall be recoverable from such person by the said Commissioners by civil bill, or by such proceedings in any of the Superior Courts of Record in Dublin as the said Commissioners shall think proper to adopt: and in all cases where a memorial shall have been presented by or on behalf of any Grand Jury, it shall be lawful for the said Commissioners to issue a certificate to the secretary of such Grand Jury, specifying the amount of such expenses which shall have been incurred on behalf of such Grand Jury, and same shall be paid out of the sum (if any) which shall have been deposited on behalf of such Grand Jury; and if such sum so deposited shall be insufficient to pay such expenses, then the balance thereof, or if no such deposit shall have been made, then the whole of such expenses shall be presented by the Grand Jury assembled at any assizes to be holden subsequent to the issuing of such certificate as aforesaid for the county by or on behalf of the Grand Jury of which such memorial shall have been presented; and in default of such presentment, the Judges at such assizes, or one of them, shall order such amount to be raised off such county, and such order shall have the force of a presentment, and the Treasurer of such county shall insert the amount specified in such order in his warrant, and the same shall be apportioned, raised and levied as if the same had been duly presented, and shall be paid by the Treasurer of such county to such Commissioners; and in case the sum

sum deposited with the said Commissioners by any such person, or by or on behalf of any Grand Jury as aforesaid, shall be more than sufficient to defray the expenses aforesaid, then the surplus which shall remain of such sum, after payment of the expenses aforesaid, shall be returned without further deduction to the person or to the Treasurer of the Grand Jury by whom or on whose behalf the same was deposited with the said Commissioners, and such Treasurer shall keep a separate account of the monies so returned to him as aforesaid.

And be it Enacted, That at any time after the publication of any such final notice as hereinbefore mentioned, the said Commissioners shall be at liberty to commence and proceed with the works proposed to be executed for the drainage or improvement of the land or river to which such notice may relate.

37.
After publication of notice, Commissioners may commence proposed works.

And be it Enacted, That the said Commissioners shall and may at any time or times nominate, appoint, employ and dismiss at pleasure any engineers, surveyors, clerks, collectors, receivers or other necessary officers they shall think proper, and shall and may allow and appoint, to be paid out of the funds at their disposal under this Act to such engineers, surveyors, clerks, collectors, receivers and other officers, such yearly or other salary or wages for their trouble and pains in executing such offices as the said Commissioners shall think reasonable; and all and every the person or persons who shall be so employed by the said Commissioners as aforesaid, shall, under their respective hands, when required so to do by the said Commissioners, render to the said Commissioners a true, exact and perfect account of, with proper vouchers for, all monies which shall have been received and paid by them respectively by virtue of the said offices to the time of giving in such account, and shall pay to the said Commissioners, or such person as they shall authorize to receive the same, all such sums as shall upon balancing the said account be adjudged by the said Commissioners to be due from such persons, and shall deliver up all vouchers, books and writings relating to their respective offices to the said Commissioners; and in case any person who shall be so employed as aforesaid shall not give in and make such account and payment as aforesaid, or shall refuse or neglect to deliver up such vouchers, books and writings to the said Commissioners, or to such other person as they shall order and direct to receive the same, then and in every of the said cases it shall and may be lawful to and for any Two or more Justices of the Peace, at petty sessions assembled, to make inquiry of such defaulter in a summary way; and if such person shall thereof be convicted, either by confession or by the testimony of any one or more credible witness or witnesses upon oath, such Justices shall commit the party to the common gaol of the said county, there to remain for any time not exceeding Twelve calendar Months, or until he shall have made a perfect

38.
Commissioners to appoint officers.

All officers to account.

account and payment as aforesaid, and shall have delivered up all such vouchers, books and writings in his custody, or shall have compounded or agreed with the said Commissioners, which composition and agreement the said Commissioners are hereby empowered to make.

39.
Reservoirs
and embank-
ments to be
made.

And be it Enacted, That it shall be lawful for the said Commis-
sioners to make any reservoirs or embankments which they shall think
expedient for any of the purposes in this Act mentioned in such places
as they shall think proper, and to make all proper valves and cloughs
to draw the water from or out of such reservoirs, and also to make,
form, erect and construct in, upon or near any such reservoirs or
embankments such cuts, aqueducts, feeders, byewashes, spill-waters,
weirs, dams, hanks, drains, sluices and other proper, necessary or
convenient works as the said Commissioners shall think necessary for
providing and securing a supply of superabundant or flood waters to
said reservoirs or embankments, or for leading the waters therefrom
for any of the purposes in this Act mentioned, making such and
so many proper overfalls, as to the said Commissioners shall seem
necessary, to allow the ordinary water of the streams from which the
supply shall be taken to flow in the usual course, and for allowing the
escape of water, and for the protection, security, cleansing, repair and
maintenance of such reservoir and other works, or any of them, and
also to erect and build, in some convenient situation near each of the
said reservoirs, and at all times thereafter to keep in good repair, a
house and other necessary buildings for the habitation of a person to
be from time to time appointed, if the Commissioners shall deem it
necessary, to superintend such reservoir and other works, or any of
them; and such person, if so appointed, shall always be resident near
to such reservoir and other works, and shall have full power and
authority (subject nevertheless to the control of the said Commis-
sioners) to superintend and regulate the outlet of water from such
reservoir, and all matters and works connected therewith; and it
shall also be lawful for the said Commissioners to make any
road or way in lieu of any existing road or way which it may be
necessary to divert or occupy for the purpose of making any such
reservoirs, embankments or works, and to make and maintain all such
other roads or ways in, through, over or upon any land near to or
adjoining any of the said reservoirs as they may find necessary or
expedient for enabling them and their engineers, surveyors, agents,
officers, workmen, servants and other persons in their employ, to have
access to such reservoirs, embankments and works, or any of them, at
all times when necessary, with or without cattle, carts or carriages.

40.
Power to
divert the
surplus waters
of rivers, &c.

And be it Enacted, That it shall be lawful for the said Commis-
sioners, if they shall deem it expedient, to make feeders or channels,
with such cut-waters, drains and other works as shall be proper for
collecting

collecting and conducting into the said several reservoirs the surplus waters over and above the necessary supply of any river, stream, brook or spring near thereto, and of the tributary streams and rivulets of any such brook or stream over and above what shall be sufficient for the supply of mills or factories, land or works through or near to which the same rivers, streams or brooks respectively flow.

adjoining the
reservoirs.

And be it Enacted, That in all cases where reservoirs or embankments for the retaining of water may be made which may not be absolutely necessary for the purposes of any drainage to be effected under this Act, but may be of great advantage for the purpose of maintaining a constant supply of water for mills or factories, on any river or stream, or preventing sudden floods therein, it shall and may be lawful for the said Commissioners, with the consent of the proprietors of such mills or factories, the value of the working-water power of which shall be equal to *Two-thirds* of the value of the working-water power of the whole of the mills or factories which shall be then existing on such river or stream, to make such reservoirs or embankments as aforesaid, and to impose a tax or rate on the whole of the mills and factories along said river or stream which shall be benefited thereby, or on such new mills or mill-sites as shall or may be formed thereon and benefited thereby, for the purpose of defraying the costs of making and maintaining such reservoirs or embankments, in the proportion of the benefit conferred, such benefit to be calculated by the said Commissioners upon each foot of fall of water which shall appertain to each such mill or factory; and the said Commissioners shall have such and the like power and authority to recover the amount of rate which shall be so fixed and determined by them as are by this Act, given to them for the recovery of any other rate or charge imposed hereby; and it shall be lawful for the said Commissioners to borrow money for the purpose of making such reservoirs or embankments as last aforesaid upon the security of the taxes or rates which they are hereby empowered to impose on such mills or factories as aforesaid: Provided always, That in each case before any such reservoir or embankment as last aforesaid shall be made, all the preliminary measures and proceedings hereinbefore required to be taken or observed previous to the publication of such final notice as aforesaid, in cases where drainage or improvement by drainage is proposed to be affected, or such of them as shall be applicable, with like right of appeal, shall be duly taken and observed; and a final notice, stating that all the requisitions of this Act with respect to such reservoirs or embankments have been duly complied with, shall be published and posted in such manner as the final notice hereinbefore mentioned, and shall be in like manner binding and conclusive on all persons; and thereupon all the provisions, powers and authorities in this Act contained or given shall and

41.
Where reservoirs or embankments are not necessary for drainage, but may be useful for mills or factories, Commissioners may make same, with consent of proprietors of mills equal in the value of their working power to *Two-thirds* of the value of the working power of all the mills on the river.

may be used and exercised for making and maintaining such reservoir or embankment, or for any other matter or thing relating thereto.

42.
In cases of
reservoirs, &c.
who shall be
deemed pro-
prietors of
mills or
factories.

And be it Enacted, That in all cases where any such reservoirs or embankments as last aforesaid are proposed to be made, any person shall be deemed a proprietor of any such mill or factory, as last aforesaid, who shall have therein such an estate or interest as is hereinbefore required to qualify any person to be deemed a proprietor of any land proposed to be drained or improved by drainage under the provisions of this Act.

43.
Weirs may
be altered or
removed,
making com-
pensation to
the owners
thereof.

And be it Enacted, That the said Commissioners shall and they are hereby authorized and empowered from time to time and at all times hereafter, when they shall think it advisable for the purposes of this Act, to alter or remove any fishing weir erected in or upon any stream of water or any impediments whatsoever in or on any river, stream or watercourse, which now or hereafter shall be within the district within which it may be proposed that the said works shall be executed (subject, as regards weirs or dams of mills or factories, to the provisions herein contained), making such satisfaction and compensation for all damage or injury to the proprietors or other persons interested in such weirs, rivers, streams or watercourse, by and out of the monies to be raised and levied by virtue of this Act, as shall be settled and ascertained in manner hereinafter mentioned in case the said Commissioners shall not be able to come to an agreement for same with such proprietors or persons.

44.
In all cases
Commissioners
shall have
power to re-
move or alter
dams, if the
proprietors
thereof consent
in
writing to
such removal
and altera-
tion.

And be it Enacted, That in all cases it shall be lawful for the said Commissioners to take, remove or alter, any mill or factory, dam, weir, or other obstructions connected with any mill or factory, with the consent of the owner or owners thereof, and parties interested therein, signified in writing, to such taking, removal or alteration.

45.
Power to
remove or
alter mills,
dams, &c.
where
necessary for
navigation.

And be it Enacted, That in all cases where a navigation is proposed to be created or improved in conjunction with drainage, and it shall be necessary for the purpose of such navigation to remove or alter any mill, factory, dam, weir, sluices or other appurtenances belonging to any mill or factory, it shall be lawful for the said Commissioners to remove or alter same, on payment, or tender to the owner or owners thereof, of such sum for the purchase thereof, or as a compensation for the injury thereto, as shall be awarded by the said Commissioners, or shall be determined by the Assistant Barrister or a jury on an appeal, as hereinafter provided.

And

And be it Enacted, That in case the owner of any mill or factory shall consent that any dam, weir or watercourse or other work or obstruction connected with such mill or factory, shall, for the purpose of drainage to be effected under this Act, or for the improvement of the water-power of the said mill or factory, be altered and re-built, or that such mill or factory shall be supplied with any water from any reservoir, it shall and may be lawful for the said Commissioners and they are hereby empowered to fix and determine the amount of rate or contribution which shall be paid by the owner or owners of such mill or factory for the improvement which shall be so effected, towards the repayment of the costs of the works to be executed within the district within which such mill or factory is situate, and the rate which shall be paid in future for such supply of water from such reservoir; and the said Commissioners shall have such and the like powers and authorities to recover the amount of rate which shall be so fixed and determined as are given to them by this Act for the recovery of any other rates or charges imposed hereby.

46.
Power to Commissioners in case the mill-power be improved, with owner's consent, to rate the mill-owner towards the expenses of the works.

And be it Enacted, That in all cases in which, in the progress of the execution of any work under the provisions of this Act, any mill or factory shall be stopped from working, and any person or persons interested in such mill or factory shall be awarded compensation for any injury resulting therefrom, it shall be lawful for the said Commissioners, or the Assistant Barrister or Jury, to set off against the same the value of any improvement which shall be effected by the execution of such works, in the water-power of, or constancy of supply of water to, such mill or factory, or by the relief from back water afforded to it.

47.
Any improvement made in the dams to mills, &c. shall be set off against loss by temporary stoppage.

And be it Enacted, That the Commissioners or Trustees hereinafter mentioned may, if they shall deem fit, for the prevention of dispute, and for the due regulation of the water in any river, stream or drain which shall be improved or made under the provisions of this Act, appoint a proper person or persons for the regulation, opening and closing of any floodgates, sluices, stopgates or stops of any weir, dam or other work connected with any mill or factory which may have been in any respect interfered with by the said Commissioners, or of any weir, dam or other work which may be under the care or control of the said Commissioners, or vested in or erected by them under the provisions of this Act; and such person so appointed shall have full power and authority to regulate, open and close same for the purposes aforesaid, subject nevertheless to the control, orders and directions of the said Commissioners; and all expenses of maintaining same and the sills and gauges hereinbefore directed to be erected, and of remunerating said person employed to regulate same, shall, save as herein-after provided, be defrayed by the said Commissioners or Trustees

48.
Commissioners may appoint persons to open flood-gates, &c.

respectively out of the funds and rates which shall be levied under the provisions of this Act.

49.
Owners
or occupiers
not to be
exonerated
from making
such repairs
as were
necessary
before the
passing of this
Act.

Provided always, and be it Enacted, That nothing herein contained shall be construed to exonerate the owner or occupier of any mill, factory or mill-site, or any other person, from such obligation, duty or liability to preserve or repair the banks of any river, stream or watercourse, or to maintain any dam or sluice or flood-gate, or any engine, contrivance or other work for regulating or maintaining the supply of water in any dam or watercourse, or to maintain or repair any building, machinery or other work whatsoever as he may or would have been respectively subject or liable to if this Act had not been made.

50.
Remedy by
summary
application to
the Court of
Chancery or
Exchequer in
the event of
Commissioners
failing to
secure the
due amount
of water-
power to the
owner of mill
or factory.

And be it Enacted, That any person interested in any mill or factory affected or proposed to be affected by any thing to be done under the provisions of this Act, may complain, by petition, in a summary way to the Court of Chancery or Exchequer, on the ground that the due amount of water-power has not been properly secured to or for such mill or factory, or that any act has been done, or has been threatened or proposed to be done, by the said Commissioners, or by any person or persons acting or professing to act under the provisions herein contained, or any of them, by which injury has been or may be sustained by such mill or factory, or by such person so interested in respect thereof, and which act shall not or would not be authorized by such provisions; and thereupon such Court shall make such order and direct such proceedings, whether before one of the Masters or the Chief or Second Remembrancer of such Court respectively, or by directing any issue or issues to be tried before a Judge and Jury at the assizes, or before the Assistant Barrister and a Jury, or otherwise, as such Court may order; and thereupon it shall be lawful for such Court to direct such works to be made by such Commissioners as to such Court of Chancery or Exchequer shall seem necessary or proper; and to make, from time to time, such further or other order, whether for compensation to any party interested in such mill or factory, or for restraining the Commissioners or any other person from doing any act or otherwise, as to such Court shall seem just, and to issue any writ or writs of injunction for any of the purposes aforesaid for which the same may be required: Provided always, That such petition shall be presented within Six Months after the subject-matter of such complaint shall have arisen.

51.
Power to
execute
works.

And be it Enacted, That it shall be lawful for the said Commissioners to contract with or employ such contractors, surveyors, agents and workmen as they shall think fit, to make and execute all such works as shall be described in the maps, plans and sections hereinbefore

before mentioned, or such deviations therefrom, or such other works as they shall deem necessary for effecting all or any of the purposes of this Act, and for such purposes to enter into and upon any land whatsoever, and to widen, straighten, deepen, divert, scour or cleanse any river, stream, drain, brook, pool or watercourse running through such land, and to make, open and cut in or upon the same any new watercourse side-cut, ditch or drain, and to alter or remove any bank, sluice, floodgate, lock, drain or tunnel, and to make or erect any wharf, landing-place, pier, quay, harbour, bank, sluice, floodgate, lock, lock-house or other building, drain, tunnel, towing-path or other works necessary for drainage or navigation, and to dam, bar and stop up, with any weir or dam, any river, brook, pool, stream or watercourse, and also to make upon such land any embankment against the sea, or any lake, river, stream or watercourse, and to put and place on such land any piles, stones, earth, soil or other materials for the purposes of the works, or for the more effectual protection or defence of such land, or for the better conveying the waters from the said land into the sea, or into any river, lake, stream or watercourse, and also to form any dam, and to erect any sluice, hatch or lock in any river, lake, stream or watercourse, for the purpose of supplying water to any mill or factory, or to any site proper for the erection of a mill or factory thereon, or of keeping back a sufficiency of water for the use of cattle, or for the irrigation or warping of lands where such irrigation or warping shall be wanted, and shall be a beneficial manurance to such lands, and also to stop up or divert any road, or remove any bridge, and to make any new road or bridge, and also from time to time to repair, alter or remove any sluice, floodgate, hatch, tunnel, road or other works now made or to be made as aforesaid, and to divert, deepen, widen, cleanse and scour any ditch, drain, watercourse or side-cut now existing or to be made as aforesaid, and also to do all such things, and erect such steam and other engines, and execute all such works as may be necessary or convenient for the purposes of this Act, making compensation, to be ascertained in the manner hereinafter mentioned, to all persons for any damage occasioned to them by the exercise of any such powers.

And be it Enacted, That it shall be lawful for the said Commissioners, or any engineer, workman or other person authorized by them, after giving at least *Three Days'* previous notice of their intention so to do, to enter into, and to search for, dig, take and carry away materials out of any land lying within or contiguous to the land or river proposed to be drained or improved, for the purpose of executing or repairing any works under the provisions of this Act, making such compensation for the damage done to the proprietors, lessees or occupiers of such lands as to the said Commissioners shall seem fit and reasonable; and in case of dispute, such compensation shall be settled on a summons, to

52.
Commissioners may enter lands and dig for materials, on making compensation.

be issued for that purpose, by any Two or more Justices of the Peace for the county in which such land is situate, being assembled in petty sessions.

53-
Commission-
ers to fill up
holes and pits
not found
useful, and
fence off those
that may be
useful.

And be it Enacted, That if the said Commissioners, or any person authorized by them, shall, by reason of the searching for, digging or getting any materials as aforesaid, for making and executing any of the works hereby authorized to be executed, make any pit or hole in any common or other land wherein such materials shall be found, the said Commissioners, or persons authorized by them, shall forthwith, where the same shall be necessary for the safety or security of the public, or if the proprietor or occupier shall so require, cause the same to be sufficiently fenced off during such time as the said pit or hole shall be found useful, and shall within Six Days after having dug up sufficient materials, if such pit or hole is not likely to be farther useful, cause the same to be filled up, sloped down or fenced off, and so continued; and if the same is likely to be further useful, the said Commissioners, or persons authorized by them, shall sufficiently secure the same by posts and rails, or other fences, to prevent accidents to cattle or persons.

54-
Power to
Commission-
ers to make
drains
through land
not proposed
to be drained,
compensation
being made
for damage
done.

And be it Enacted, That if it shall be necessary for improving the outfall of any land, or for the purpose of carrying off water from any land to be drained, or from any drain to be made, scoured out or enlarged under the authority of this Act, to scour out, widen or enlarge any river or drain, or to make any drain, culvert or tunnel through any land not included in such district as aforesaid, it shall be lawful for the said Commissioners to enter upon said land, and to scour out, widen, straighten or enlarge such river or drain, or to make such drain, culvert or tunnel, due compensation being made by the said Commissioners for any damage done thereby, to be ascertained in such manner as any other compensation is hereinafter directed to be ascertained.

55-
Commission-
ers authorized
to enforce the
clearing of
drains, &c.

And be it Enacted, That where any person shall be liable, by prescription or otherwise, to scour out or cleanse any drain, sewer, watercourse, river or rivulet lying below or between, or in any land authorized to be drained by virtue of this Act, or the outfall thereof, the said Commissioners may require such person to scour out and cleanse the same; and in case such person, on the expiration of Fourteen Days after notice in writing given to him or to the tenant of the land in respect of which such liability exists, or left at the usual abode of such person or tenant, shall neglect to cleanse any such drain, sewer, watercourse, river or rivulet, to the full and proper width and depth, the said Commissioners may cause the same to be well and sufficiently cleansed and scoured out, and they are hereby empowered,

empowered, by warrant under their hands and seals, to cause the sum of money expended in so doing to be levied by distress and sale of the goods and chattels of such person or tenant, together with the charges attending such distress and sale.

5 AND whereas, by reason of the neglect of the proprietors or occupiers of lands to scour and cleanse or maintain and repair the banks of existing drains, streams and rivulets in or bounding said lands, or forming the outfall therefrom, much injury is done to other
10 lands, the proprietors or occupiers of which are willing to pay their just proportion of the expense of scouring and cleansing same, or maintaining or repairing the banks thereof, but sufficient powers do not at present exist to compel the scouring, cleansing, maintaining or repairing aforesaid; BE it Enacted, That in all such cases the parties
15 willing to pay their just proportion of the expense of scouring and cleansing any such meeting, boundary or other existing drain, stream or rivulet, or maintaining or repairing the banks thereof, shall be and are hereby authorized to require the other parties so neglecting as aforesaid, by a notice delivered as aforesaid, to join in the effectual
20 cleansing and scouring of such drains, streams or rivulets, or maintaining or repairing the banks thereof, as described in said notice; and on their failing so to do, the parties serving such notice, and such others as shall be willing as aforesaid to join in the expenses as aforesaid, may proceed immediately after the expiration of Fourteen
25 Days from the service of said last-mentioned notice, with the scouring and cleansing same, or maintaining or repairing the banks thereof, and may sue for and recover from such neglecting parties a just proportion of the expense of same, with all reasonable costs by civil bill before the Assistant Barrister of the county in which the drain, stream or rivulet, or the greater part thereof, so to be cleansed and scoured,
30 or the banks whereof are so to be maintained or repaired, shall he situate, and the proportion of such expense shall be fixed and determined by such Assistant Barrister.

56.
Any party willing to defray expense of scouring, cleansing, maintaining or repairing the banks thereof, may execute same upon serving proper notice, and recover proportion of expense and costs of civil bill.

And be it Enacted, That if by any cut, drain or other works made under the authority of this Act, any road or way shall be dis-
35 turbed or interrupted, or any land intersected in such manner as to render the future occupation thereof inconvenient or unprofitable, the said Commissioners shall, if the same shall appear to them necessary, cause other convenient roads or ways to be made, and any bridges which may be required, to be properly built for the use of the persons
40 entitled to use such road or way, or for the convenience of the parties entitled to the use and occupation of any land intersected in manner aforesaid, and to defray the expense of making such road or way, and of erecting such bridges out of the moneys to be received by virtue of this Act: Provided always, That it shall be lawful for the

57.
If cuts be made, which shall injure roads or bridges, Commissioners to make roadways and bridges.

said Commissioners, if they shall think fit, to contract and agree with the said persons or parties, or any of them, for the making of such roads or ways, or the building such bridges by the said persons or parties, or any of them, and to pay the sum contracted and agreed to be paid out of the monies to be received by virtue of this Act.

58.

Where existing bridges, culverts or archways are insufficient for the discharge of water under a public or county road, same may be reconstructed by the Commissioners.

And be it Enacted, That if any existing bridge, culvert or archway for the discharge of water under any public or county road shall, in the opinion of the said Commissioners, be insufficient for the free discharge of such water, and shall, by reason of such insufficiency, cause or tend to cause the flooding of or other injury to any of the land to be drained or improved by the proposed works, or where, by means of any of such works, any public or county road shall be relieved from periodical flooding, it shall be lawful for the said Commissioners to have the same reconstructed in such manner as to them shall appear sufficient, and to determine, by a declaration in writing under their hands and seals, the proportions of the expenses of such reconstruction or relief from flooding, which shall be defrayed by the county or counties respectively within which such bridge, culvert, archway or road, or any part thereof, may be situated; and a duplicate of such declaration, under the hands and seals of such Commissioners, shall, within *One Month* from the date thereof, be transmitted to the secretary of the Grand Jury of each such county, and such declaration shall be published in *Three* successive impressions of some newspaper circulating in such county thereby made chargeable with any part of such expenses, and shall be posted at the usual places of posting Grand Jury notices in the barony or half barony in which such bridge, culvert, archway or road, or any part thereof, shall be situate, such publication and posting to be made within *One Fortnight* after the date of such declaration; and it shall be lawful for any person paying grand jury cess for such county to traverse such declaration at the assizes which shall be holden for such county, not less than *Thirty Days* after such declaration shall be transmitted to such secretary, as if the same were a presentment for damages made under any Act or Acts in force relating to the presenting of public money by Grand Juries in Ireland; and such reduced sum, if any, as shall be found upon such traverse, shall be inserted in such declaration by the court before which such traverse shall be tried; and the Grand Jury of such county is hereby empowered and required at each assizes (and without application to Presentment Sessions) to present the sum or sums of money mentioned in such declaration (whether as originally made, or as altered upon such traverse, as the case shall be), to be levied off the said county; and in case such Grand Jury shall refuse to present the sum so mentioned in such declaration, the Judge of Assize shall make an order directing that the Treasurer for such county shall insert such sum in his warrant, and the same shall be levied off such county in

the

the same manner as if the same had been duly presented by such Grand Jury ; and thenceforth such bridges, culverts, archways and roads, shall be repaired and maintained by such county or counties as were theretofore liable to repair and maintain the same.

- 5 And be it Enacted, That in the construction, alteration or re-modelling of any dams, weirs or other works in the bed of any river to be improved under this Act, it shall and may be lawful for the said Commissioners, whenever they shall deem the same necessary, so to construct, alter or re-model the same as to provide sufficient means in
10 some part of the river for the free and uninterrupted passage of salmon, trout, eels and other fish, both up and down such river.

59.
Commissioners to provide in dams and weirs for the migration of salmon, trout and eels.

- And be it Enacted, That nothing herein contained shall authorize or enable the said Commissioners to interfere with ornamental water in any private demesne or park, without the previous consent in writing
15 of the owner thereof, or of his guardian or committee, in case of infancy or lunacy, nor to curtail or cut off the supply of water to any town without previously making adequate provision in lieu thereof.

60.
Works not to injure any ornamental water, nor the supply of water to towns.

- And be it Enacted, That nothing herein contained shall authorize or enable the said Commissioners to encroach, by their works or otherwise, upon any park, gardens or demesne inclosed within a stone or
20 brick wall, without the consent in writing of the owner thereof.

61.
Nor to encroach upon parks, demesnes or inclosed gardens.

- And be it Enacted, That if, in the execution of any of the works authorized by this Act, any field, close or parcel of land shall be cut through or divided from the remainder of any estate, farm or property,
25 so that there shall be left on each or either side of the said works, or any of them, less than *One statute Acre* in quantity, or less than *Fifteen Yards* in breadth, then and in every such case the said Commissioners shall (if thereunto required by the proprietor of such field, close or other land so cut through or divided), take and purchase such piece or parcel or
30 pieces or parcels, so to be left as aforesaid, of such field, close or land, and shall pay for the same in the same manner as for the land actually required for the purposes of this Act.

62.
When lands cut through shall be less than an acre in quantity, or less than Fifteen yards wide, Commissioners to purchase the whole if required.

- And be it Enacted, That it shall be lawful for the said Commissioners to purchase any land which they shall think it necessary or proper
35 to purchase for accomplishing any of the purposes of this Act, making such reasonable satisfaction and recompense to the person entitled to or interested in such land, as shall be settled and ascertained in manner hereinafter mentioned, in case the said Commissioners shall not be able to come to an agreement for the same with such person.

63.
Commissioners may purchase land.

64.
Notices to be
given to
proprietors of
land required
for or likely
to be affected
by the pro-
posed works,
requiring
them to
furnish to
Commis-
sioners their
claims.

And be it Enacted, That the said Commissioners shall cause notices in writing to be delivered to or left at the usual places of abode of the proprietors or occupiers, or reputed proprietors or occupiers, and all persons interested, where the same may be known to the Commissioners, of and in all such land, as may be required to be taken for, or be liable to be injuriously affected by, the works proposed to be made under this Act, requiring such proprietors, occupiers or other persons to prefer their respective claims before such Commissioners for the value of such land, or the compensation to be allowed for any damage or injury thereto, and specifying therein a time and place at which such Commissioners shall hold a meeting for inquiring into all such claims, and shall also, *Thirty Days* at least before making the inquiry, examination, assessment and award hereinafter next mentioned, cause a copy of such notice to be published in *Three* successive impressions of some newspaper circulating in the county or counties in which such land as aforesaid shall be situated, and to be printed and posted at each place for posting Grand Jury notices in each barony in which any part of same shall be situate.

65.
Corporations,
trustees and
other persons
empowered to
sell and
convey, &c.

And be it Enacted, That it shall be lawful for every corporation, and for every trustee and feeoffee in trust for charitable or other purposes, and for every executor and administrator, not only for and on behalf of himself, his heirs, executors and administrators respectively, but also for and on behalf of his cestuique trust, whether infant, femme coverte, idiot, lunatic, or person not born or not ascertained, or any other person whomsoever, and to and for any tenant for life or for years absolute or determinable on any life or lives, and every person having any other partial or qualified estate or interest in any land required to be purchased for any of the purposes of this Act, not only for and on behalf of himself, his heirs, executors, administrators and issue, but also for and on behalf of the person entitled in remainder, reversion, expectancy or contingency, or for any other future estate or interest where such person or any of such persons (if more than one), whether entitled to the next or any subsequent estate or interest, or any part thereof, shall not be ascertained, or shall be incapable of contracting for, selling or conveying the same, and to and for every guardian on behalf of his respective ward, husband on behalf of his respective wife, committee on behalf of the person of whose estate he shall be committee, and the heirs, executors, administrators and issue of such ward, wife or person respectively, and to and for any femme coverte entitled in her own right to any such land, or to dower or other interest therein, on behalf, not only of herself, but also of her respective heirs, executors, administrators and issue, and also where such ward, wife, person or femme coverte respectively shall be tenant for life or in tail, or for years, or have any other partial or qualified estate or interest, to and for such guardian, husband, committee and femme coverte,

coverte, on behalf of the person or persons on behalf of whom such ward, wife, person or femme coverte respectively, if of full age, unmarried and of sound mind, might have contracted for, sold and conveyed the same land, and to and for every other person whomsoever, who is or shall be seised or possessed of or interested in any such land, to contract or agree for the absolute sale or exchange thereof, and of every or any part thereof, to the said Commissioners, or to contract for the amount of compensation which shall be paid for any injury thereto, or for the payment of such sum of money for equality of exchange as shall be determined by the said Commissioners, and also to execute any conveyance, or enter into any contract with respect to the premises which the said Commissioners shall deem necessary for the due execution of this Act; and all such contracts, agreements, sales, conveyances and assurances shall be valid and effectual, and all monies payable by the said Commissioners in respect thereof shall be paid by the said Commissioners out of the monies to be raised by virtue of this Act, as hereinafter mentioned.

And be it Enacted, That all conveyances which shall be executed to the said Commissioners, of any land which shall be required by them for any of the purposes of this Act, shall be in the following form, or as near thereto as the number of parties and the nature of the case will admit: namely,

66.
Form of
Carryover.

" I, of in
in consideration of the sum of paid
to [or, paid into the Bank of Ireland,
as the case may be], by the Commissioners appointed under
an Act passed in the year of the reign of Her
Majesty Queen Victoria, intituled, [here set forth the title
of this Act], do hereby grant and release to the said Com-
missioners, all [describing the premises], together with all
ways, rights and appurtenances thereunto belonging, and all
estates, rights and interests in the same, and every part
thereof, to hold to the said Commissioners and their
successors for ever, according to the true intent and
meaning of said Act. In witness whereof, I have hereunto
set my hand and seal, on this day of in
the year of our Lord One thousand eight hundred ."

And be it Enacted, That every corporation, and every trustee and other person hereinbefore capacitated to contract for, sell and convey any such land as aforesaid, and any other owner of any such land, or of any share, estate or interest therein, may accept and receive such satisfaction and recompense for the value thereof; and such corporation, trustee, person or owner, and also any tenant

67.
Satisfaction
to be made,
and may be
accounted.

for a year, or from year to year, or at will, or other occupier of any land, entitled to such compensation for such injury or damage as shall be sustained on account of the execution of this Act, or in any wise relating thereto, may accept and receive such sum of money in respect thereof as shall be agreed upon between him respectively and the said Commissioners; and in case the said Commissioners and the said party interested in such land, or sustaining such injury or damage, cannot or do not agree as to the amount or value of such satisfaction, recompense or compensation, the same respectively shall be ascertained and settled in manner hereinafter directed.

68.
Commissioners em-
powered to
assess the
value.

And be it Enacted, That if any such corporation, trustee or other person interested in or hereinbefore authorized to contract for, sell and convey any such land as aforesaid for the space of Thirty Days after notice in writing given to the principal officer or officers of such corporation, or to such trustee or person respectively, or left at his respective place of abode, or at the house of the tenant or occupier of such land intended to be purchased, taken or used for any of the purposes of this Act as aforesaid, shall neglect or refuse to treat, or shall not agree with the said Commissioners, or, by reason of absence or disability, cannot agree or cannot be found or known, or shall not produce a clear title to the land or the estate or interest which he shall claim therein, to the satisfaction of the said Commissioners, or in case any such corporation or trustee or other person sustaining any such injury or damage as aforesaid shall not accept such satisfaction or recompense for the same as shall be offered by the said Commissioners, then in every such case the said Commissioners are hereby empowered, at a time and place to be specified in such notice as last aforesaid, to inquire and examine and assess and award the sum of money to be paid for the purchase of such land, or the recompense or satisfaction to be made for damage that may or shall be sustained as aforesaid, and to settle and ascertain in what proportions the sum so awarded shall be paid to the several persons interested in such land, or in any charge, lien or incumbrance thereon, and what abatements (if any) shall be made in the rents payable out of the land named or described in such award, or any land held in conjunction therewith; and the said Commissioners shall award such purchase-money or recompense so to be assessed, and the said Commissioners shall and may in such award, name or describe the persons (if known to the said Commissioners,) to whom respectively the sum mentioned therein shall be paid, and in what proportions the same shall be paid to and among such persons where more than one, and the land, naming or describing the same, in respect of which such sum has been so awarded, and also what abatements (if any) shall be made in the rents payable out of the land named and described in such award, or any land held under the same lease or instrument in conjunction therewith; and the

the said Commissioners shall notify and appoint a time and place for holding a meeting for the confirmation of their said award, and shall attend at such time and place, and at such meeting, or at some adjournment thereof, proceed to consider each case, and hear all objections
 5 which may be made thereto by any person whatsoever, and receive all such evidence as they shall find pertinent and proper, and amend or confirm and settle each such award accordingly, and such award shall be conclusive and binding upon The Queen's most Excellent Majesty and all other persons interested, except in the case and subject to the
 10 provisions hereinafter contained.

Provided always, and be it Enacted, That if any person interested or claiming to be interested in any land which may be made the subject of any such award as aforesaid, shall be dissatisfied therewith, either as respects the amount of the value or the compensation awarded in respect
 15 thereof, or as respects the persons to whom or the proportions in which such value or compensation is to be paid, it shall be lawful for such dissatisfied person to appeal to the quarter sessions which shall be held next after any such award shall have been made and settled as aforesaid, for the county where insuch land shall be wholly
 20 or in part situate, the party appealing, if there be sufficient time after such award, having first given to the said Commissioners Twenty-one Days' notice at least of his intention of bringing such appeal, and of the matter thereof; and if there shall not be sufficient time for giving such notice previous to the quarter sessions next after such award, then such appeal may be made at the second quarter
 25 sessions which shall be holden for such county after such award; and the Assistant Barrister at such first or second quarter sessions, or any adjournment thereof, upon due proof of such notice having been given, is hereby empowered and required to hear and finally determine the matter of such appeal, either by or without the verdict of a jury, as
 30 the party appealing shall require, and may order the costs thereof to be paid wholly or in part by either of the parties thereto, and may, by warrant under his hand, direct such costs so awarded to be levied by distress and sale of the goods and chattels of the party or parties who shall refuse or neglect to pay the same: Provided always, That if
 35 no notice of appeal shall be served on the said Commissioners within Fourteen Days next after their award shall be made, the same shall be final, binding and conclusive upon all persons and to all intents and purposes whatsoever.

69.
 Any person dissatisfied with the objection of the Commissioners may appeal to the Assistant Barrister at quarter sessions.

And be it Enacted, That if, in any notice of appeal to be served on said Commissioners as aforesaid, the party appealing shall require a jury to be summoned for determining the matter of such appeal, then and in every such case the said Commissioners shall issue out their warrant, under their hands and seals, to the sheriff of the county where
 40

70.
 Juries to be summoned.

such appeal is to be heard, commanding such sheriff to impanel, summon and return a jury, and such party may also serve a copy of such notice of appeal on such sheriff; and the said sheriff to whom the said warrant shall be directed, is hereby required accordingly to impanel, summon and return a jury of Twenty-four men qualified according to law to be returned for trials of issues joined in Her Majesty's Courts in Dublin, to appear before the said Assistant Barrister at such time and place as in such warrant or warrants shall be appointed, not being less than *Fourteen Days* after such warrant shall be served upon the said sheriff, upon pain to forfeit for every default in not making such return *Five Pounds*, to be sued for and recovered in the manner hereinafter directed, and also to return in issues upon every person so impanelled and returned, who, contrary to the true intent and meaning of this Act, shall not appear, the sum of *Forty Shillings*, which shall be levied by distress and sale of the goods and chattels of the person not appearing as aforesaid, by warrant under the hand and seal of the said Assistant Barrister; and in case a sufficient number of jurymen shall not appear at such time and place, the said sheriff shall return other honest and indifferent men that can speedily be procured to attend that service, being qualified as aforesaid, to make up the said jury to the number of Twelve, and all parties concerned shall and may have their lawful challenges against any of the said jurymen; and the said Assistant Barrister is hereby empowered, by warrant under his hand and seal, from time to time, as occasion shall require, to summon and call before him all and every such person and persons as shall be thought necessary to be examined as witnesses touching the matters in question; and the Assistant Barrister may order and authorize the said jury or any Six or more of them, to view the place or matter in question, which jury (upon their oaths, to be administered by the said Assistant Barrister, which oaths, as also the oaths to such person or person as shall be called upon to give evidence, the said Assistant Barrister is hereby empowered to administer) shall inquire of, assess and ascertain the sum of money to be paid for the purchase of such land, or the recompense or satisfaction to be made for damages that may or shall be sustained as aforesaid, and to settle and ascertain in what proportions the sum so assessed shall be paid to the several persons interested in the premises.

Juries may
be challenged.

71.
Judgments of
Assistant
Barristers to
be binding on
all parties.

And be it Enacted, That in all such cases of appeal as last aforesaid, the said Assistant Barrister shall give judgment for such purchase-moneys or recompense, whether same shall have been assessed and ascertained by such juries, or finally determined by such Assistant Barrister; and the verdicts of such juries, and the judgments thereon, and the judgments of said Assistant Barrister, where no such verdicts shall be given, shall be final, binding and conclusive to all intents and purposes against all parties, corporations and persons whomsoever.

And

And be it Enacted, That if any person summoned as a juryman as aforesaid shall, after his appearance, refuse to be sworn, or, being so sworn, refuse to give or not give his verdict, or in any other manner wilfully neglect his duty in the premises, contrary to the true intent and meaning of this Act, every person so offending, having no reasonable excuse, to be allowed by the said Assistant Barrister, shall for every such offence forfeit and pay any sum not exceeding the sum of *Forty Shillings*, to be levied on the goods and chattels of the person so offending, by warrant under the hand and seal of the said Assistant Barrister, by distress and sale of the offender's goods, rendering the overplus to the owner thereof, after such penalty and the charges of such distress and sale are deducted.

72.
Juryman refusing to be sworn or give verdict to forfeit a sum not exceeding 40 s.

And be it Enacted, That such of the aforesaid awards of the said Commissioners as shall not be appealed from, and the judgments and verdicts so given as aforesaid, shall be respectively transmitted to and be kept by the respective Clerks of the Peace of the counties in which the land in respect of which such awards, judgments or verdicts shall have been respectively made shall be situate, and shall be deposited with the records, and deemed records of such counties respectively to all intents and purposes; and the same, or copies thereof, shall be allowed to be good evidence in all courts whatsoever; and all persons shall have liberty to inspect the same, paying for such inspection the sum of *One Shilling*, or to have copies thereof, paying for every copy the sum of *Sixpence* for every *Seventy-two* words, and so in proportion for any greater or less number of words.

73.
Awards, verdicts and judgments to be recorded.

And be it Enacted, That if any money shall be adjudged or awarded to be paid for any land purchased, taken or used by virtue of the powers of this Act, or as compensation for any damage or injury to any land which shall belong to any corporation, or to any trustee or feoffee, executor or administrator, or any husband, guardian or committee for or on behalf of any femme coverte, infant, idiot or lunatic, or to a tenant for life, or any person who shall have no power to give a valid receipt for the same, or to sell or convey the same land otherwise than by virtue of this Act, such money shall, in case the same shall amount to or exceed the sum of *Two hundred Pounds*, with all convenient speed be paid into the Bank of Ireland in the name and with the privy of the Accountant General of the Court of Chancery or Exchequer, to be placed to his account there, exparte the Commissioners for executing this Act, setting forth the title hereof, and without fee or reward, and shall, when so paid in, there remain until the same shall by order of the said Court, made upon a petition to be preferred to the said Court in a summary way by the person who would have been entitled to the rents and profits of the said land, be applied in or towards the discharge of any such debt or

74.
Application of compensation money when amounting to or exceeding £. 200.

other incumbrance affecting the same land, or any other land or property standing settled therewith, to the same or the like uses, trusts, intents and purposes as the said Court of Chancery or Exchequer shall authorize to be paid, or such part thereof as shall be necessary; or the same money shall upon the like application in a summary way be laid out by order of the said Court in the purchase of other land, which shall be conveyed, limited and settled to, for and upon such and the like uses, trusts, intents and purposes, and in the same manner, as the land which shall be so purchased, taken or used, or damaged or injured as aforesaid, stood settled or limited, or such of them as shall be then existing, undetermined or capable of taking effect; and in the meantime and until such order can be obtained, the said money may, by order of the said Court, upon application thereto, be invested by the said Accountant General, in his name, in the purchase of any stocks, funds or annuities transferable at the Bank of Ireland; and in the meantime and until the said stocks, funds or annuities shall be sold by order of the said court for the purpose aforesaid, the dividends or annual produce thereof shall from time to time be paid to the person who would for the time being have been entitled to the rents and profits of such land so to be purchased, conveyed and settled.

75.
When less
than £. 200,
and amount-
ing to or
exceeding
£. 20.

Provided always, and be it Enacted, That if any money so adjudged or awarded to be paid for any land purchased, taken or used for the purposes aforesaid, or damaged or injured as aforesaid, belonging to any corporation, or to any person as last aforesaid, shall be less than the sum of Two hundred Pounds, and shall amount to or exceed the sum of Twenty Pounds, then and in all such cases the same shall, at the option of the person for the time being entitled to the rents and profits of the land so purchased, taken or used, or damaged or injured, or of his guardian or committee, in case of infancy, lunacy or other incapacity, to be signified in writing under their common seal or respective hands (as the case may require), be paid into the Bank of Ireland in the name and with the privity of the said Accountant General, and be placed to his account as aforesaid, in order to be applied in the manner hereinbefore directed; or otherwise the same may be paid at the like option and with the like approbation, to Two or more trustees, to be nominated by the person who for the time being would be entitled to the rents and profits of the land so to be purchased, taken or used, or damaged or injured as aforesaid, such nomination to be approved of by the said Commissioners, and such nomination and approbation to be signified in writing under the hands or common seal of the nominating and approving parties; and the monies so paid to such trustees, and the dividends and produce arising thereon, may be applied by such trustees in like manner as is hereinbefore directed with respect to the money so to be paid into the Bank of Ireland, without being required

to obtain any order of the Court of Chancery or Exchequer touching the application thereof.

Provided also, and be it Enacted, That if any money so adjudged or awarded to be paid, as hereinbefore mentioned, shall be less than Twenty pounds, then and in every such case the same shall be paid to the person who would for the time being have been entitled to the rents and profits of the land so purchased, taken or used, or damaged or injured, for the purposes of this Act, for his own use and benefit, or, in case of infancy or lunacy or other incapacity, then to the person acting as guardian, committee or trustee of such person, to and for the use and benefit of the person entitled thereto.

76.
When less
than £ 20

And be it Enacted, That where, by reason of any disability or incapacity of any party entitled to any land to be taken, purchased or used, or in respect of which any compensation or satisfaction shall be payable under the authority of this Act, the purchase-money for the same shall be required to be paid into the Bank of Ireland, to be applied in the purchase of other land to be settled to the like uses in pursuance of this Act, it shall be lawful for the said Court to order the expenses of all such purchases, or so much of such expenses as the said Court shall deem reasonable, together with the necessary costs and charges of obtaining such order, to be paid by the said Commissioners out of the monies to be received by virtue of this Act, and the said Commissioners shall from time to time pay such sums of money for such purposes as the said Court shall direct.

77.
The Court
may order
reasonable
expenses of
purchases to
be paid by
the Commis-
sioners.

And be it Enacted, That if any corporation or person seized or possessed of, or having any estate or interest in, any such land as aforesaid, cannot be found, or shall not be known, or shall not prove a good title to such land to the satisfaction of the said Commissioners, or any person authorized by them, or shall refuse to execute a conveyance thereof, then and in every such case it shall be lawful for the said Commissioners to pay such sum of money as shall have been contracted and agreed or shall have been adjudged in manner aforesaid to be paid for the purchase or for the value of such land into the Bank of Ireland in the name and with the privy of the Accountant General of the said Court of Chancery or Exchequer, to be placed to his account to the credit of the party interested in the said land (describing such land), or if such party shall not be known, then to the credit of the then unknown person interested in the said land (describing the same), subject to the order, control and disposition of the said Court, which said Court, on the application of any corporation or person making claim to such sum of money, or any part thereof, by motion or petition, shall be and is hereby empowered, in a summary way of proceeding or otherwise, as to the

78.
Provided to
vest in the
Commissioners,
upon
payment
into Bank of
the money
agreed upon
or assessed,
when con-
veyances
cannot be
obtained.

same Court shall seem fit, to order the same to be laid out and invested in the public funds, and to order distribution thereof, or payment of the dividends thereof, according to the respective estate, title or interest of the corporation or person making claim thereto, and to make such other order in the premises as to the said Court shall seem just and reasonable; and the cashier of the Bank of Ireland, who shall receive such sum of money, is hereby required to give a receipt for such sum of money, and upon payment of such sum of money into the Bank as lastly hereinbefore is mentioned, the land or estate for the purchase or as the value of which the same shall have been agreed and awarded to be paid, and the fee-simple and inheritance thereof, or other the absolute interest therein, together with the yearly profits thereof, and all the estate, right, title, interest, use, trust, property, claim and demand, in law and equity, of the corporation or person, or unknown person, to whose credit such money shall be paid in, to and out of the land, shall vest in the said Commissioners, and they shall be deemed in law to be in the actual seisin or possession thereof to all intents and purposes whatsoever, as fully and effectually as if every corporation or person having any estate in such land had actually conveyed the same; and such payments shall not only bar all right, title, interest, claim and demand of the corporation or person, or unknown person, of, in or to the same land, to whose credit such payment shall have been made, but also shall extend to and be deemed and construed to bar the dower of the wife of such person, and all estates tail and other estates in possession, reversion, remainder, expectancy or contingency, and the issue of such person and every other person whomsoever.

79.
In case of
questionable
title of per-
sons in pos-
session.

Provided always, and be it Enacted, That where any question shall arise touching the title of any person to any money which shall be paid into the Bank of Ireland in the name and with the privy of the Accountant General of the said Court of Chancery or Exchequer, in pursuance of this Act, for the purchase of any land to be taken or purchased in pursuance of this Act, or to any Bank Annuities or Government or Real Securities, the person who shall have been in possession of such land at the time of such purchase, and all persons claiming under such person, or under the possession of such person, shall be deemed and taken to have been lawfully entitled to such land, until the contrary shall be shown to the satisfaction of the said Court, and the dividends or interest of the Bank Annuities or Government or Real Securities to be purchased with such money, and also the capital of such Bank Annuities or Government or Real Securities, shall be paid, applied and disposed of accordingly, unless it shall be made to appear to the said Court that such possession was a wrongful possession, and that some other person was lawfully entitled to such land, or to some estate therein.

And

And be it Enacted, That if any person shall have any mortgage, or be entitled to any sum of money charged on any land taken or purchased under this Act, then on payment of the principal and interest due thereon to such mortgagee or person entitled thereto, or into the Bank of Ireland for the use of the mortgagee or other person entitled thereto, all the estate of the said mortgagee or other person, and of every person in trust for him, shall vest in the Commissioners, and they shall be deemed to be in the actual possession of the premises comprised in such mortgage or other security, free from the same mortgage and charge, to all intents and purposes whatsoever: Provided always, That if the money and interest due in respect of any mortgage or charge on any land purchased or taken under this Act shall amount to more than the value of the premises charged therewith, or such of them or of such part thereof as shall be purchased or taken under this Act, then upon payment to such mortgagee or person, or into the Bank in manner hereinbefore mentioned, of the sum to be ascertained as the value of the estate or interest so mortgaged or charged in the land or part thereof so to be taken and purchased as aforesaid, all the estate of the said mortgagee or person as aforesaid, and of every person in trust for him, in the said land or any part thereof, the value whereof shall have been so ascertained and paid as aforesaid, shall vest in the Commissioners, and they shall be deemed to be in the actual possession of the said lands to all intents and purposes whatsoever, and freed as aforesaid; and the mortgagor or other person entitled to redeem shall be and is hereby barred and foreclosed from all right and equity of redemption of and in the same land, and all the estate of him and every person in trust for him in the same land shall vest in the said Commissioners, and they shall be deemed to be in the actual possession thereof to all intents and purposes whatsoever.

80.
Estate of mortgagees to vest in Commissioners on payment of principal and interest;

or if such principal and interest exceed the value of the property, then on payment of the value.

And be it Enacted, That upon payment into the Bank of Ireland, as herein directed, or upon payment or legal tender of any such sum of money as shall have been contracted for between the parties, or adjudged in manner aforesaid, for the purchase of any land, or as a recompense for the yearly produce or profits thereof, or as a compensation for damages as herein mentioned to the proprietor of such land, or to such person as shall be entitled thereto under any of the provisions herein contained, it shall be lawful for the said Commissioners, or their agents, workmen or servants, immediately to enter upon and use such land.

81.
Power to enter and take possession of land, &c. on payment or tender of purchase-money.

Provided always, and be it Enacted, That if it shall seem expedient to the said Commissioners at any time or times within Six Months after any adjudication or contract shall be made, given or entered into under the provisions of this Act, not to take or injure the

82.
Commissioners may forego the taking of any land on serving a notice within

Six Months
from the time
of contract or
adjudication
that same
will not be
required.

the whole or any part of any land, or other matters or things named or described in such adjudication or contract, it shall be lawful for the said Commissioners to serve a notice upon or cause the same to be left at the usual place of abode of the person or persons who are or appear by the said adjudication or contracts to be interested in such land or other matters or things, stating that the same, and what part thereof, will not be taken for or injured by any thing to be done under this Act; and the adjudication or contract mentioned in the said notice, or such part thereof as shall relate to the part not required to be taken or injured as aforesaid (at the option of the said Commissioners) shall be utterly void and of none effect, to all intents and purposes whatsoever; and in case a part only of any adjudication or contract shall become void as aforesaid, the said Commissioners shall fix, and ascertain the portion of the sum mentioned in any such adjudication or contract which should be deducted on account of the part not required to be taken or injured, and, if necessary, apportion the residue among the persons entitled thereto, and the said Commissioners shall amend such adjudication or contract accordingly, and such amended adjudication or contract shall have all the force and effect, and shall be subject to the like appeal, as any other adjudication or contract under this Act.

83.
If the Commissioners make any new site for a mill or factory, same shall be vested in them and their successors, and they shall have power to purchase land for mill-plot.

And be it Enacted, That whenever, in executing any of the proposed works, the said Commissioners shall be enabled to make any new site for a mill or factory, such new site may be made by the said Commissioners if they shall think fit, and the same shall be absolutely vested in the said Commissioners and their successors for ever, in order that same may be sold, and the purchase-money applied towards defraying the expenses of such works as aforesaid, or in discharge of any debt to be contracted for paying those expenses: Provided always, That the making of such new site for any mill or factory shall not prejudice or injure the supply of water to or discharge of water from any existing mill or factory; and in every case where such new site may be made it shall and may be lawful for the said Commissioners to purchase such quantity of land as to them shall seem expedient for the erection, by the person to whom the same shall be sold, of a mill or factory on such new site, with suitable mill-plot, roads and approaches thereto, the purchase-money for which shall be paid by the said Commissioners by and out of the monies raised by virtue of this Act.

84.
Commissioners to sell lands and mills, making first offers to the proprietors of the estate.

And be it Enacted, That the said Commissioners shall, from time to time, sell and dispose of all or any part of the lands, tenements or hereditaments, mills, buildings or erections, weirs, mill-dams, water-courses and mill-sites, which shall become vested in them under any of the provisions aforesaid, and which, in their opinion, shall not be required to be retained for any of the purposes of this Act; and the produce

produce of such sale or other disposition shall be applied in payment of the expenses or debts contracted on account of the expenses of the works executed in the district in which such lands so sold or disposed of shall be situate: Provided always, That the said Commissioners, before they shall sell or dispose of any of the premises aforesaid, shall first offer the same to the person from whom the same shall have been purchased or taken, or to the person to whose estate the same originally belonged, or whose estate shall adjoin thereto; and if each such person shall refuse or shall not agree to purchase the same, an affidavit being made and sworn before a Master Extraordinary in the High Court of Chancery, and filed in said Court, that such offer was made by or on behalf of said Commissioners, and that such offer was refused or was not agreed to by the person to whom the same was made, such affidavit shall, in all courts whatsoever, be sufficient evidence and proof that such offer was made and was refused, or not agreed to, by the person to whom such offer was made.

And be it Enacted, That all sums received by the said Commissioners under the provisions of this Act (except for or in respect of the tolls or rates for navigation), shall be paid into the Bank of Ireland to the credit of the said Commissioners, and shall be applied towards the expenses of the several works for drainage, navigation or water-power to be executed under this Act, or towards the repayment of any loan or loans which shall have been or may be made to the said Commissioners for the execution of the said works under the power in that behalf hereinafter contained, and of all other expenses payable by the said Commissioners under the provisions of this Act.

85.
Application
of monies
received by
the Commis-
sioners.

And be it Enacted, That it shall be lawful for the said Commissioners, with the approbation of the Lords Commissioners of Her Majesty's Treasury, from time to time and at all times hereafter, to demand, receive, levy and take for or in respect of any river which shall be rendered navigable, or the navigation whereof shall be improved, under or by virtue of the provisions of this Act, and also for wharfage or quayage at any pier, harbour, landing-place, quay or wharf, to be built, erected or made by the said Commissioners, or vested in them under the provisions of this Act, such rates or tolls as the said Commissioners, with the approbation of the said Commissioners of the Treasury, shall think fit, and it shall be lawful for the said Commissioners to fix the time or times respectively from and after which such rates or tolls shall be payable.

86.
Powers to
Commission-
ers to take
Tolls.

Provided always, and be it Enacted, That any boat or vessel charged with a tonnage-rate shall not in any event be liable to pay in respect of any voyage a greater amount of toll, exclusive of quayage or wharfage, than *Two Shillings and Sixpence* per ton; and that any boat or vessel

87.
Limitation
of Tolls.

charged with a rate per boat or boat load, shall not in any event be liable to pay, in respect of any one voyage, a greater amount of toll, exclusive of quaysage or wharfage, than *Eight Shillings* per boat or boat load : Provided also, That no toll or rate whatever, except wharfage or quaysage, shall be rated, levied or imposed by the said Commissioners under this Act, upon steam-vessels employed in towing boats or barges, and not carrying at the same time goods or passengers.

88.
Tolls may
be raised or
lowered.

And be it Enacted, That it shall be lawful for the said Commissioners, and they are hereby authorized and empowered, from time to time, as they shall think fit, with the approbation of the said Commissioners of the Treasury, to reduce all or any of the rates or tolls by this Act authorized to be taken, and afterwards, from time to time, with the like approbation, to raise the same or any of them to any amount not exceeding the amount hereinbefore specified : Provided also, That if such rates or tolls shall have been let or demised by the said Commissioners, no alteration shall be made therein during the continuance of such lease or demise, unless with the consent in writing of the tenant or lessee.

89.
If disputes
should arise
about the
amount of
tolls, the
collectors may
weigh the
goods.

And be it Enacted, That if any dispute or difference shall arise between the collectors of the rates or tolls made payable by this Act, and the owner, master or person having charge of any boat, barge or other vessel, or the owner of any goods, wares and merchandize or other things chargeable with or liable to the payment of any of the said rates or tolls concerning the weight or quantity of the same, it shall be lawful for such collector to stop and detain any such boat, barge or other vessel, and to weigh, measure or gauge, or cause to be measured, weighed or gauged, all such goods, wares and merchandize or other things as shall be in any vessel where and when any dispute shall arise ; and in case any such goods, wares and merchandize or other things shall, upon such weighing, measuring or gauging, appear to be of as much weight, measure or quantity as, or of greater quantity than, such collector did insist and affirm the same to be before the weighing, measuring or gauging thereof, so as to make the same chargeable with or liable to the payment of as much money as, or more money than, was demanded by the collector before the weighing, measuring or gauging of such goods, wares and merchandize or other things, then and in such case the master or owner of such boat, barge or other vessel, or the owner of such goods, wares and merchandize so weighed or measured or gauged, shall pay the costs and charges of such weighing, measuring or gauging thereof, all which said costs and charges, upon refusal of payment thereof on demand, shall and may be recovered as the rates and tolls made payable in and by this Act are appointed to be recovered ; but in case such goods, wares and merchandize or other things shall upon such weighing, measuring or gauging

gauging appear to be of no greater weight or quantity than the master or owner declared the same to be before the weighing, measuring or gauging thereof, then and in such case such collector shall pay the costs and charges of such weighing, measuring or gauging, and shall
 5 also pay to the master or person having charge of such boat, barge or other vessel, or to the owner of such goods, wares and merchandise, a sum not less than *One Shilling*, nor more than *Two Shillings and Sixpence*, for every hour that such boat, barge or other vessel shall be detained by occasion of such weighing, measuring or gauging, and so
 10 in proportion for any greater or less time than an hour; and in default of immediate payment thereof, the same shall be levied by distress and sale of the goods and chattels of such collector, or of any lessee of such rates or tolls by whom such collector may have been employed, by warrant under the hand and seal of any Two Justices of the Peace
 15 for the county, liberty or place where such collector shall reside, rendering the overplus to the owner thereof after such distress and sale made.

And be it Enacted, That any lock or bridge keeper appointed under the provisions of this Act to have the charge of opening
 20 or shutting any lock or bridge on any navigation to be improved or made under the provisions of this Act, shall constantly attend to same, and shall at all reasonable times open same for the passage of trading or other vessels, the tolls and other rates required under this Act for such vessels being paid, and the bye-laws, rules and regulations which
 25 shall be made by the said Commissioners being complied with; and each such lock or bridge keeper wilfully neglecting the duties of his office in any of the matters aforesaid, shall be liable to a penalty of not more than *Five Pounds* for each offence.

90.
Lock-keepers
to attend at
locks.

And be it Enacted, That the said Commissioners shall cause an
 30 account or list, printed or painted in large legible characters, of the several rates and tolls which the said Commissioners shall from time to time direct and appoint to be taken, and which shall be payable by virtue of this Act, to be affixed on boards in some conspicuous place,
 35 and continued and renewed as often as the same shall be obliterated or defaced, to or upon every toll-house or building at which any such rates or tolls shall be collected or received.

91.
A list of the
rates, tolls,
&c. to be
affixed in
conspicuous
places.

And be it Enacted, That it shall and may be lawful for the said Commissioners to appoint sufficient collectors and agents for the purpose of receiving the tolls and rates payable under this Act, and in
 40 case of refusal or neglect on demand to pay such rates or tolls as have accrued due unto the respective persons appointed to receive the same as aforesaid, the said Commissioners may sue for and recover the same by an action of debt in any of Her Majesty's Courts of Record or
 94.

92.
Enforcing the
payment of
rates and
tolls.

by civil bill, or the person to whom such rates or tolls ought to have been paid may and he is hereby empowered to seize the goods, articles or other things for or in respect whereof any such rates or tolls ought to be or ought to have been paid, or any part thereof, and the vessel laden therewith, or any other goods, articles or things belonging to the person liable to pay such rates or tolls, and detain the same until such payment shall be made, together with all reasonable charges for such seizure and detention; and if such goods, articles and things shall not be redeemed within *Twenty-one* Days after the taking thereof, the same shall be appraised and sold as the law directs in cases of distress for rent, and such rates, tolls and charges satisfied thereout.

93-
Leading the
rates and
tolls.

And be it Enacted, That it shall be lawful for the said Commissioners (if they shall think fit), by public bidding from time to time to let all or any of the tolls or rates payable under the provisions of this Act, for terms not exceeding *Three* Years, on such conditions and with such security for the payment of the rent reserved on such lease as the said Commissioners, with the consent and approval of the said Commissioners of the Treasury, shall deem expedient, and every such lease shall be valid; and the respective lessees thereof, and also such persons as such lessees shall appoint to collect and receive the rates or tolls so let, shall have the same powers and authorities for collecting and recovering the same as are hereinbefore by this Act given to the said Commissioners and the person appointed by them to collect such tolls and rates.

94-
Power of
re-entry in
case of non-
performance
of the condi-
tions of the
lease.

And be it Enacted, That in case any of the rates or tolls by this Act authorized to be taken shall be demised or let, and the lessee thereof shall refuse or neglect to perform the terms and conditions on which the same shall be so demised or let, or any of them, or in case all or any part of any rent agreed to be paid by any such lessee shall be in arrear or unpaid for the space of *Twenty-one* Days next after any of the days on which the same ought to be paid pursuant to the lease or demise of such rates or tolls, or in case any collector of the said rates or tolls appointed by the said Commissioners as aforesaid, shall be discharged from his office or shall die, abscond or absent himself, and any such collector who shall be so discharged, or the wife, widow or any of the children or family, or any representative of any such collector, or any other person being in possession thereof, shall refuse to deliver up, or shall not deliver up possession of any toll-house, office or other building, with the appurtenances thereto respectively belonging, to be used for the purposes of this Act, within the space of *Seven* Days next after a demand thereof in writing, signed by the said Commissioners, shall be given to him or affixed to such toll-house, office or building, or in case any such lease or demise shall

shall in any manner become void or voidable, then and in any of the said cases it shall be lawful for any Two or more Justices of the Peace, acting within their jurisdiction, upon any application made by the said Commissioners, by warrants under the hands and seals of the said Justices, to order any constable or other peace officer, with such assistance as shall be necessary, to enter upon and take possession of every or any such toll-house, office or other building, with the appurtenances, and to remove and put such lessee, collector or other person as shall be found therein, together with his goods, from and out of the same and the possession thereof, and from the collection of such rates or tolls, and to put the said Commissioners, their agent or their new lessee or collector into the possession thereof; and thereupon it shall be lawful for the said Commissioners to vacate and determine the lease and demise or agreement (if any) which was previously subsisting, and the same shall accordingly be utterly void to all intents and purposes (save as to the contracts and agreements unperformed by the said lessee); and it shall be lawful for the said Commissioners in every such case, either during such proceedings, or on the termination thereof, again to demise or let the said tolls or rates in such and the same manner as if no former demise or agreement had been made with respect thereto.

And be it Enacted, That the income which the said Commissioners shall receive for or in respect of any tolls or other rates to be imposed and levied under this Act by reason of the improvement to be effected in any such river as aforesaid, shall be applied in the first instance in payment of the expenses attending or incident to the maintenance and repairs of the works which shall be constructed solely for the improvement of such river, and the expenses of collecting such tolls and rates as aforesaid, and all other expenses attending the conservancy and due preservation of such river, or the navigation thereof, and the surplus, after defraying such expenses, shall be applied in manner hereinafter mentioned, in repayment of the sum, which, under the award of the said Commissioners, shall or may be paid by the person who shall have given such guarantee or security as aforesaid for the payment of the costs of improving such river, together with interest on such sum, as hereinafter mentioned.

And be it Enacted, That when and so soon as by means of such surplus income, such sum as shall be so payable under the said award, and the interest in respect thereof, shall be fully paid and satisfied, then the tolls and rates on the said river shall, with the consent of the Commissioners of Her Majesty's Treasury, be reduced to such an amount as will defray the expenses hereinbefore directed to be defrayed out of such tolls and rates.

95.
How the income derived from navigation shall be applied.

96.
Tolls to be reduced to an amount sufficient to defray maintenance of works.

97.
Commissioners may borrow money for the purposes of this Act.

And be it Enacted, That it shall and may be lawful for the said Commissioners from time to time, as occasion shall require, to borrow and take up at interest, of and from any person who shall be willing to advance and lend the same, any sum or sums of money required for defraying the costs, charges and expenses incurred or to be incurred by them in the execution of any works for the drainage or improvement of any land or river, under or by virtue of this Act, and the repayment of such sum or sums of money, with interest, at a rate not exceeding *Five Pounds* per centum per annum, shall be secured to the party lending the same upon the monies accruing to the said Commissioners, under or by virtue of the award to be made by the said Commissioners, as hereinafter mentioned.

98.
Commissioners to grant certificates to lenders, for principal and interest.

And be it Enacted, That it shall and may be lawful for the said Commissioners from time to time to grant a security in the form of a certificate under the hands and seals of said Commissioners, to every person who shall so advance any sum of money as aforesaid, setting forth the amount of the sum borrowed, with the rate of interest payable for the same, and the periods at which the said principal money shall be paid off, in one payment, or by instalments, and a general description of the land or river for the drainage or improvement of which such sum shall have been borrowed, and that every such certificate shall be made in the following words, or as near thereto as the circumstances of the case will admit :

Form of Certificate.

" By virtue of an Act passed in the fourth year of the reign of Her Majesty Queen VICTORIA [here insert the title of this Act] we, the undersigned, being the Commissioners for the execution of an Act passed in the fourth year of the reign of Her Majesty Queen VICTORIA [here set forth the title of this Act], in consideration of the sum of pounds of lawful money of Great Britain, to us lent and paid, by , do hereby certify, that the monies to become payable to us, under our award, for the drainage (or improvement) of [here describe the land or river], are hereby charged with the repayment of said sum of [here insert the period when the money is repayable in one payment, or by instalments, as the case may be], together with interest thereon [or, if the money be payable by instalments, with interest on each part of the said principal money as shall remain unpaid from time to time] at and after the rate of pounds per centum per annum, until the whole thereof shall be repaid, which sum so lent and advanced by the said was taken up and borrowed by us for the purposes of the said Act. In witness whereof, we have hereunto set our hands and seals the day of ."

"And

And the monies mentioned in each such certificate, with the interest thereon, and hereby charged upon, shall be payable and paid by the said Commissioners out of, the monies which shall come to their hands under their award as aforesaid, and all persons to whom such certificates shall be given shall be equally entitled (one with the other) to the monies accruing by and under the same charges, according and in proportion to the sums by them respectively lent and advanced as aforesaid, without any preference, by reason of the priority of the date of such certificate, or upon any other account whatsoever: Provided always, That nothing herein contained shall be deemed, construed and taken to extend to make the said Commissioners, or any of them, who shall sign or execute any such certificate, personally, or their respective lands or tenements, goods and chattels, liable to the repayment of any of the monies to be borrowed or secured in pursuance of this Act.

And be it Enacted, That every person, body politic, corporate, collegiate, aggregate or sole, who shall be entitled to the money secured by any such certificate, and his, her or their executors, administrators and successors, may from time to time personally or by attorney thereunto lawfully authorized, assign or transfer his, her or their right, title, benefit or interest to the said principal sum and interest money thereby secured to any person whatsoever, by endorsing on the back of such security, in the presence of One credible witness who shall subscribe his name thereto, the following words, or words to the like effect:

99-
Loans may be transferred.

" I, [or, We] A. B., of _____, in consideration of the sum of _____ to me this day paid by C. D., of _____, do hereby transfer the within certificate of charge, with all my right and title to the principal money thereby secured, and now remaining due thereon, and to all the interest money now due or hereafter to become due, unto said C. D., his, her or their executors, administrators, successors or assigns (as the case may be). Given under my hand and seal this day of _____

Witness _____."

Which transfer shall be produced and certified to the secretary for the time being of the said Commissioners before the party holding the same transfer shall be entitled to receive any principal or interest due or owing as aforesaid; and every such secretary shall make an entry amongst the records of the said Commissioners of the particulars of every such transfer, and sign the same.

100.
Power to
borrow money
at a lower
rate of
interest.

Provided always, and be it Enacted, That in case the said Commissioners can at any time borrow or take up any sum of money at a lower rate of interest than the certificates which for the time being shall be in force shall bear, it shall be lawful for the said Commissioners to borrow and take up; and they shall (if so required by the parties interested), borrow and take up from time to time in manner aforesaid, upon like certificates, at such reduced rate of interest, any sum which may be required to pay off the monies secured by the existing certificates; and the re-payment of such new loan shall be secured in like manner upon the monies accruing to the said Commissioners under their award as aforesaid; and the said Commissioners shall pay off and discharge the certificates or securities bearing a higher rate of interest accordingly.

101.
Money may
be borrowed
for the pur-
poses of this
Act, from
Public Loan
Commission-
ers, or from
Commission-
ers of Public
Works.

And be it Enacted, That it shall and may be lawful for the Commissioners appointed for carrying into execution an Act passed in the first and second years of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act for the Extension and Promotion of Public Works in Ireland," or for the Commissioners appointed and acting under the Act of Parliament passed in the fifty-seventh year of the reign of his late Majesty King GEORGE the Third, intituled, "An Act to authorize the Issue of Exchequer Bills, and the Advance of Money out of the Consolidated Fund, to a limited Amount, for the carrying on of Public Works or Fisheries in the United Kingdom, and the Employment of the Poor in Great Britain," or any Act or Acts for amending the same respectively, and the said Commissioners are hereby respectively empowered from time to time, out of any funds at their disposal, to lend and advance any sum of money which may be necessary for the purposes of this Act upon the credit of the award to be made as hereinafter mentioned, provided that no advance of money shall be made by either of the said Commissioners for any of the purposes aforesaid, unless with the consent of the Commissioners of Her Majesty's Treasury; and that all such monies so lent and advanced by either of such Commissioners shall be repaid from and out of the monies accruing to the Commissioners for the execution of this Act under the said award, by and from the charges aforesaid, within such period, either by one payment, or by half-yearly instalments of such amount, and with such interest, as the said Commissioners of the Treasury shall direct: Provided always, That all such monies as shall be lent and advanced shall be repaid within Twenty-five Years from the date of such advance, and that the rate of interest payable thereon, or on so much thereof as shall be from time to time outstanding, shall not be less than *Ten Shillings* per centum per annum above the rate of interest on the Exchequer bills which may be issued for the purpose of providing for such loan or advance, as the said Commissioners of the Treasury shall direct.

And

And be it Enacted, That the Commissioners for the execution of this Act shall and they are hereby required to order and direct books to be provided and kept, in which shall be entered true and regular accounts of all sums of money received, paid, laid out and expended about any drainage or improvement or other work made under the provisions of this Act, and of the several articles, matters and things for which any sum of money shall have been disbursed, laid out and paid, and shall keep the accounts with reference to the improvement of any river or navigation separate and distinct from the accounts with reference to drainage; which books shall at all reasonable times, on giving *Three clear Days'* notice of the intention to apply for an inspection thereof, be open to the inspection of the proprietors and persons interested in the drainage or improvement to which such books shall relate, without fee or reward; and such persons may take copies of or extracts from the said books, or any part thereof, without paying for the same.

102.
Accounts to
be kept.

And be it Enacted, That Once at least in every year the said Commissioners shall and they are hereby required to make out and prepare a true and just account or statement of all sums of money by them received and expended in the execution of any works for the drainage or improvement of any such land or river as aforesaid; and such account or statement, when so made, together with the vouchers relating thereto, shall be preserved by the said Commissioners at their office in Dublin, and a copy of such account, signed by said Commissioners, shall be deposited with the Clerk of the Peace of every county in which any part of such district shall be situate, and the same respectively shall be open to public inspection, at all reasonable times, on payment of a fee of *One Shilling*, and any person interested in such works shall be at liberty to take copies thereof or extracts therefrom at all reasonable times, and the said Commissioners and Clerk of the Peace shall furnish copies of or extracts from any such account or statement, to any persons requiring same, upon payment of the costs of making such copies or extracts.

103.
Contributions
are to account
yearly.

And be it Enacted, That as soon as conveniently may be after any works for the drainage or improvement of any land or river under this Act, or any other work by this Act authorized to be executed, shall have been completed, the said Commissioners shall draw up, or cause to be drawn up, an award or instrument in writing, which shall describe the land or river drained or improved as aforesaid, and the work or works which shall have been so completed; and such award shall also specify the quantity belonging to every proprietor of such land so drained or improved as aforesaid, and the original value and the increase in the value of the land so drained or improved; and such award shall also specify the amount of the sums which shall have

104.
Commission-
ers to make
award upon
completion of
any works
under this
Act.

been expended in and about the works which shall have been so executed for drainage or improvement by drainage, and all expenses incident thereto (including the interest of all borrowed monies), and the proportions of such sums with which the land drained or improved by drainage shall be charged towards payment of the total amount of the costs, charges and expenses of such drainage, or incidental thereto, and whether the same shall be re-paid in one sum or by instalments, and if by instalments then said award shall also specify the several instalments and the manner by and in which such proportions shall be paid, regard being had to the degree of benefit conferred as aforesaid, and the circumstances of each particular case; and in the case where any water-power shall be improved under the provisions of this Act by any works so completed, the said award shall also specify the lands, tenements and hereditaments liable under the provisions of this Act to the payment of the expenses of the execution of the works of such improvement, or incidental thereto, and the amount of such expenses, and the proportions thereof with which the lands, tenements and hereditaments shall be respectively charged, and whether same shall be repaid in one sum or by instalments as aforesaid; and in the case of the improvement of any river, the said award shall specify the amount of the costs, charges and expenses to be borne in respect thereof by the district in which such river or any part thereof is situate, or the Grand Jury of the county in which such district shall be situate, or by the person who shall have guaranteed or secured the payment of the costs of such improvement; and the said award shall also specify whether such amount shall be re-paid in one sum or by instalments as aforesaid; and the said award shall also specify the baronies, half baronies or townlands in the district benefited by the improvement of such river, and the proportions in which such baronies, half baronies or townlands are thereby benefited; and the said Commissioners shall also cause to be inserted in every such award all such other determinations, matters and things as the said Commissioners shall think necessary and proper; and the said Commissioners shall also cause to be specified in every such award the proportion in which the land, tenements or hereditaments so improved as aforesaid, and the proprietors of such land, tenements or hereditaments in respect thereof respectively for the time being shall in future be annually charged towards the costs and expenses which may from time to time be incurred in or about the maintaining, cleansing and keeping in repair the several watercourses, sluices, drains, ditches, cuts, rivers, lakes, streams, tunnels, culverts, banks, bridges, outlets, weirs, engines, reservoirs, embankments, fences and other works to be executed under this Act, and shall specify, according to such proportions as aforesaid, the rate which shall be payable towards such costs and expenses as last aforesaid for the year next ensuing the date of each award.

And

And be it Enacted, That the said Commissioners shall, within *One*
calendar Month next after the making of their said award, cause a
 draft thereof to be printed and sold at a price not exceeding *Two*
Shillings and Sixpence for each printed copy thereof, and shall
 5 within such *calendar month* cause such draft, or a copy thereof, to be
 deposited with the Clerk of the Peace for every county wherein the
 land or river or any part thereof, which shall have been drained or
 improved, may be situate; and such Clerk of the Peace is hereby
 authorized and required to receive the same upon receiving a fee of
 10 *One Guinea* for so doing; and when such draft of the award has been
 so deposited, the said Commissioners shall cause notice thereof to be
 posted in the usual places for posting Grand Jury notices in every
 barony, and county of a city and county of a town in which such
 district or any part thereof shall be situate, and shall also cause a
 15 like notice to be inserted Once in each week for *Three* successive
 weeks in the Dublin Gazette, and in some one or more newspapers
 usually circulated in such district or the vicinity thereof; and the
 Commissioners shall by such notice require all Grand Juries and
 persons who may desire to lodge objections to the said award, to lodge
 20 the same at such place and before such time as shall be specified in
 the said notice; and the Commissioners shall also in the said notice
 state that they will proceed to hear any objections which may be
 lodged, and to settle the award at such time and place as shall be
 specified in the said notice, such time not to be sooner than *Two*
 25 *calendar Months* from the first publication of such notice.

105.
 Draft award
 to be depo-
 sited, and
 notice given
 for persons
 objecting to
 award in their
 objections.

And be it Enacted, That the said Commissioners shall attend at
 such time and place or places as they shall appoint, such place or
 places to be in or near such district, so that there shall be *one* such
 place in each county specified in such notice, and shall examine into
 30 the matter of any objection which shall be so lodged to the award,
 and shall hear all such proper evidence as may be offered to them
 in respect thereof, and shall make such alterations (if any) in the said
 award as they shall think fit, and may adjourn such attendance from
 time to time, and shall settle and sign such award.

106.
 Commission-
 ers to hear
 and decide
 objections
 (if any)
 to award.

And be it Enacted, That every award, when finally settled by the
 said Commissioners, with a proper map or plan annexed thereto,
 describing the district and the lands therein to which such award
 shall relate, shall be enrolled in the Rolls Office of Her Majesty's
 Court of Chancery in Ireland within *Three Months* after same
 40 shall have been finally settled, and a copy thereof shall be deposited
 with the Clerk of the Peace of each county in which such district
 shall be situate, who is hereby authorized and required to receive and
 deposit the same amongst the records of the county; and such award,
 when so finally settled and enrolled, shall be binding and conclusive on
 all

107.
 Award to be
 deposited.

all parties, and shall of itself be evidence that it was duly made, and that all the requisitions of this Act in relation thereto were complied with; and the said Commissioners shall, within *One Month* after the said award shall be finally settled, cause such award to be printed and kept for sale at a price not exceeding *Two Shillings and Sixpence* for each printed copy thereof. 5

108.
Apportioned
expenses to
be charged
on lands.

And be it Enacted, That the respective sums of money which, by the award of the said Commissioners, shall be specified as the proportions or contributions which the land drained or improved by drainage, by any works under this Act shall be charged with, towards the total amount of the sums expended in and about such drainage or improvements as aforesaid, with interest for such respective sums of money, at the rate not exceeding *Five Pounds* per centum per annum from the date of such award, shall be charged on the land so drained or improved as aforesaid, and that in preference to and with priority over all incumbrances on such lands, except that any incumbrance thereon previously to the date of said award shall have priority to such charges, to the extent of the value of such land before the improvements were effected; and the same respective sums of money, with such interest for the same as aforesaid, shall also be charged upon all other land of the same proprietor, standing settled with the land drained or improved, to the same uses, intents and purposes, by virtue of limitations contained in the same instrument, or the same set of instruments, but subject as to such other land to the incumbrances affecting the same prior to the date of said award. 10 15 20 25

109.
In case of
non-payment
of money so
charged,
Commissioners may enter
into receipt of
the rents, and
mortgage the
land.

And be it Enacted, That if any such sum of money as last mentioned, or any instalment thereof, or any interest in respect thereof, shall remain unpaid for the space of *Three* calendar Months next after the time appointed for payment of the same by the said award, then it shall be lawful for the said Commissioners, or any person authorized by them, to enter upon the land charged with or liable to the payment of the sum of money or interest so in arrear, or any part thereof, and the rents and profits of such land to receive and take until, thereby or otherwise, the sum and interest so due (together with all costs and expenses attending or occasioned by such entry and receipt of the rents, profits and issues of such land) shall be fully paid and satisfied; and it shall be lawful for the Court of Chancery or Exchequer in Ireland, upon the application by petition of the said Commissioners, to appoint a receiver of the rents, profits and issues of such land, which receiver shall have full power to receive the same rents, profits and issues, and apply the same, after deduction of the necessary expenses of the application to the said Court, in payment of the sum and interest so due, until the same shall be fully paid; and it shall also be lawful for the said Commissioners, if they shall 30 35 40

shall so think fit, to raise such sum and interest, and all costs and expenses attendant thereon, by mortgage of such land, or a competent part thereof; and every such mortgage, and every receipt given for the consideration money, shall be valid and effectual to all intents and purposes whatsoever; and no mortgagee shall be bound to see to the application of his mortgage money, or to inquire whether the mortgage made by the said Commissioners is hereby authorized.

And be it Enacted, That where the amount of the costs, charges and expenses payable under the said award for the improvement of any river under or by virtue of the provisions of this Act, shall be payable by the Grand Jury of the county in which such river or any part thereof is situate, the secretary of the said Commissioners shall certify to the secretary of such Grand Jury the amount of such costs, charges and expenses, and the instalments and manner by and in which the same is payable under the award of the said Commissioners; and such Grand Jury is hereby required to make presentment of the amount of such costs, charges and expenses, or of the instalments from time to time payable in respect thereof, as stated in such certificate, together with interest thereon respectively, at a rate not exceeding *Five Pounds* per centum per annum from the date of such award, to be raised off the baronies, half baronies or townlands named in said award, and situate in such county, and in the district or part thereof benefited by the improvement of such river, according to the proportions specified in the award of the said Commissioners; and in default of such presentment the Judges at such assizes, or One of them, shall order such amount or instalments, with interest as aforesaid, to be raised off such county, and such order shall have the force of a presentment; and the Treasurer of such county shall insert such amount or instalments, with the interest thereon, as same shall be from time to time payable, in his warrant or warrants, and same all be apportioned, raised and levied as if same had been duly presented; and when and so soon as such amount or instalments as aforesaid, with the interest thereon, shall be raised and received by the Treasurer of the county, such Treasurer shall immediately pay over the same to the said Commissioners.

110.
As to expenses of improvement of river when payable by Grand Jury.

And be it Enacted, That where the amount of the costs, charges and expenses payable under the said award for the improvement of any such river as aforesaid, shall be payable by any person who shall have guaranteed or secured the payment of such costs, charges and expenses in manner hereinbefore mentioned, then such person is hereby required to pay to the said Commissioners the amount of such costs, charges and expenses, or of the instalments from time to time payable in respect thereof, together with interest thereon respectively, at a rate not exceeding *Five Pounds* per centum per annum from the date

111.
Where payable by an individual.

of such award, at the time and in the manner expressed and required by the said award; and if default shall be made in payment thereof respectively, or of any part thereof, the said Commissioners shall enforce such payment by action or otherwise, as such Commissioners shall think proper, against such person, or by means of any security which shall have been given by him to the said Commissioners. 5

112.
Application
of surplus in-
come of tolls.

And be it Enacted, That the said Commissioners shall apply the surplus income which shall arise from or in respect of any tolls or rates to be imposed and levied as hereinbefore mentioned upon or in respect of any river which shall have been improved under this Act, after defraying all such expenses as hereinbefore specified, in or towards the repayment of the sum which shall have been paid by any person respectively under the provisions lastly hereinbefore contained, together with interest thereon at the rate of *Five Pounds* per centum per annum; and after such sum or sums shall have been repaid, together with all interest in respect thereof, then the tolls and rates shall be reduced in manner hereinbefore mentioned. 10 15

113.
Proprietors of
less than fee-
simple may
charge the
expenses on
the lands.

And be it Enacted, That any proprietor entitled to less than an immediate estate of fee-simple, may, with the consent of the said Commissioners, charge, (according to the like priority, and subject to the like incumbrances as aforesaid), the land to which he shall be entitled, and which shall have been drained or improved by drainage under the provisions of this Act, with the proportion of the expenses to be defrayed by him under the award of such Commissioners, or any part thereof, with lawful interest thereon, but so nevertheless that the charge upon such lands or premises shall be lessened in every successive year (to be computed from the date of such award) by the amount of at least one-twentieth part of the whole sum of the instalments charged thereon by the award of the Commissioners, and the interest in respect thereof. 20 25 30

114.
Power of
leasing lands
improved.

And be it Enacted, That it shall be lawful for any tenant in tail or for life, or for any other partial interest, at any time after a copy of any such said award shall have been deposited with the Clerk of the Peace as aforesaid, to lease the land drained or improved by drainage, and described in said award, which shall belong to him, for any term not exceeding *Thirty-one Years*, at such yearly rent, and subject to such covenants and agreements, as the said Commissioners shall by indorsement upon such lease signify their approval of. 35

115.
Contribu-
tion to deter-
mine amount
of increased
rent to be
paid for land
improved.

And be it Enacted, That in case any land which shall be drained or improved by drainage under this Act, shall at the time of making the said award be in the occupation of a person who shall not be deemed a proprietor thereof, under the provisions in that behalf hereinbefore contained, or in case any land so drained or improved shall be held 40

held under any person who shall under the provisions of this Act be deemed a proprietor thereof by any other person or persons under any lease, agreement or contract for a lease, or shall be held under any lease, agreement or contract for a lease granted or made by any person or persons having any immediate or derivative title from or under such proprietor, then and in such case the said Commissioners shall determine the amount of increased rent or rents which such occupant or other person or persons having such immediate or derivative title from or under such proprietor as aforesaid shall pay in consequence of any improvement of such land, regard being had to the duration, extent and value of the interest of such occupant or person or persons in such land, and the necessary expenses to be incurred in the cultivation thereof, and the peculiar circumstances of each case, and regard also being had to the rates and taxes which will be payable by the proprietor under this Act, for the ordinary maintenance and support of the works which shall have been executed, but without taking into account any probable expenses which may be payable by the proprietor for the re-construction or re-instatement of such works, or any reparation of any extraordinary nature; and the landlord or respective landlords of such occupant, or other person or persons, shall have the same remedies for the recovery of such increased rent or rents as he or they was or were entitled to for the rent or rents originally reserved; and the decision of the said Commissioners shall be signified by indorsement on the lease or instrument or leases or instruments of demise, under the hands and seals of the said Commissioners, or any Two of them.

And be it Enacted, That every tenant or occupier of any land who shall pay any sum of money for the land in his occupation on account of his landlord, under any of the provisions hereinbefore contained, shall and he is hereby authorized to deduct and retain out of his rent the amount of the sum of money which he shall so pay as aforesaid, and the landlord of such land is hereby required to allow such deduction and payment; and every such tenant or occupier paying any such sum of money shall be acquitted and discharged of the sum so paid by him as fully and effectually as if the same had been actually paid to his landlord (except where there shall or may be any lease or agreement to the contrary); but nothing herein contained shall extend or be construed to enable any tenant or occupier to deduct from his rent any costs or expenses incurred by non-payment of the monies hereby imposed or authorized to be levied.

116.
Tenants paying monies on account of landlord, to deduct them from rent.

117.
In certain cases the Commissioners to have the care of the works.

And be it Enacted, That in every case where any river shall be improved under this Act, and in every case where any reservoir shall be made, the said Commissioners shall and they are hereby empowered to have and retain the continued care and conservancy of the several works which shall be executed under the provisions of this Act.

118.
Mode of ap-
pointing trust-
tees.

And be it Enacted, That in every case where no river shall have been improved in connexion with drainage, or where no reservoir shall have been constructed under the provisions of this Act in any such district as aforesaid, the said Commissioners shall and they are hereby required to call a meeting of the proprietors of the land included in such district, within *Three* calendar Months at least after the date and execution of the said award, by notice to be inserted once in each week for *Three* successive weeks in some one or more newspaper or newspapers usually circulated in the vicinity of such land, and to be posted in the usual places for posting Grand Jury notices in every barony, county of a city or county of a town in which any part of such district shall be situate, in order to make choice of Trustees for the further execution of this Act; and such Trustees so to be chosen shall not be less than *Three* nor more than *Nine*, and they shall continue in office for the term of *Three* Years from the time of their election, and until new Trustees are appointed in manner hereinafter mentioned; and at the expiration of every such term of *Three* Years, and also at the expiration of every succeeding term of *Three* Years, for ever thereafter, new Trustees shall from time to time be in like manner chosen by the proprietors of the lands included in such district, at a meeting for that purpose to be holden; and the said Trustees that shall afterwards be elected shall be chosen by the proprietors of the greater portion of such lands in value (such value to be calculated according to the proportions of the annual rate or tax with which they shall be respectively chargeable by virtue of this Act), or by the assent of such proprietors, certified in writing under their hands in books to be kept for that purpose; and such Trustees, or the Majority of them for the time being, are hereby fully authorized, with the consent and approbation of said Commissioners, to make, alter, support and maintain, or cause to be made, supported, altered and maintained, all such cuts, drains, banks, sluices, tunnels, bridges, engines, buildings and other works, in and about the land so drained as aforesaid, as they shall think necessary for draining and preserving the same; and all the powers and provisions of this Act, relating to the Commissioners, which apply to or can be exercised by the said Trustees, shall be and the same are hereby extended to the said Trustees, as if the said Trustees as well as the said Commissioners had been expressly mentioned in such powers and provisions respectively; and in case any Trustee shall die or refuse or become incapable to act in the execution of this Act, before the expiration of the term of *Three* Years, for or during which he shall have been chosen to act, a person shall be chosen to be a Trustee in his room during the remainder of the term of *Three* Years, at a meeting to be called for that purpose, in like manner as the said Trustees are hereinbefore directed to be elected at the expiration of every such term of *Three* Years, and that every

every such Trustee being so chosen shall, during the remainder of the existing term of *Three Years*, have the like powers and authorities whatsoever to all intents and purposes as the Trustee in the room or stead of whom he shall be chosen would have had by virtue of this Act, if in being and continuing to act in the execution of the trusts and purposes hereinbefore mentioned: Provided always, That after the expiration of every term of *Three Years*, and after the death, refusal or incapacity of any Trustee, and until new Trustees or a new Trustee shall from time to time be elected in manner hereinbefore directed, the lastly elected or the surviving or continuing Trustees for the time being shall have the like powers and authorities to all intents and purposes, and shall continue to act in the execution of the trusts and purposes hereinbefore mentioned, as if the period of their original election had not expired, or as if a new Trustee had been appointed.

And be it Enacted, That the Trustees who shall be elected as aforesaid, shall be subject to the control and direction of the said Commissioners in all matters relating to accounts, and to the preservation and maintenance of the works which shall be executed under the provisions of this Act; and it shall and may be lawful for the said Commissioners, at such stated periods as to them shall seem expedient, to make or order an inspection of said works, and to direct that such works, matters and things as the said Commissioners shall think necessary for the preservation thereof, shall be made, done and executed by the said Trustees; and it shall and may be lawful for the said Commissioners from time to time, and as often as any Trustees who shall be elected as aforesaid shall refuse or neglect to perform the several duties hereby imposed upon them with respect to said works, to enter into and retain the possession of the said land which shall have been vested in the said Trustees, and to do all such acts and exercise all such powers and authorities as they the said Commissioners would have been entitled to do and exercise if the said Trustees had not been appointed, and all powers and authorities hereinbefore given to such Trustees shall thenceforth cease and determine until the purposes for which the said Commissioners shall have entered into possession shall have been effected: Provided always, That if it shall seem expedient to the said Commissioners, new Trustees may be elected in manner aforesaid.

AND for the purpose of effectually sustaining and upholding, in all cases in which works shall be executed under this Act, all and singular the drains, watercourses, banks, sluices, floodgates, tunnels, watergates, buildings, bridges, steam or other engines and other works, and of supplying in such cases all things that may be required to work the same, and for the payment of all necessary expenses of maintenance

119.
Trustees, in all matters relating to the preservation and maintenance of the works executed under this Act, shall be subject to the control of the Commissioners.

120.
Commissioners or Trustees to hold annual meetings, and fix the amount to be raised for maintenance and repairs for the ensuing year.

of works of drainage, reservoirs and water-power, and all other expenses incident thereto; BE it Enacted, That it shall be lawful for the said Commissioners (or in cases where Trustees are appointed, for the said Trustees) and they are hereby respectively authorized and required, once in every year, to meet in some convenient place, and then to determine and fix, subject in the case of Trustees to the approval of the said Commissioners, the sum of money that shall be contributed and raised during the then ensuing year for the purposes of effecting, sustaining, supporting and upholding all and singular the aforesaid works, and for other the purposes of this Act, and (having regard to the proportions fixed for such purpose by the said Commissioners in their award) to assess, rate and tax the proprietors of the said land for and towards the payment and satisfaction of all such sums of money, costs, charges and expenses as may be required for the purposes last aforesaid, and for the payment and satisfaction of any sum of money raised for such purposes, and the interest thereof; and the said Commissioners and Trustees respectively shall have the same powers, rights and privileges by entry or mortgage to enforce the payment of all such last-mentioned sums of money, costs, charges and assessments as are hereinbefore given to the said Commissioners for the enforcing payment of the sums charged under their award as aforesaid; and at every such meeting held by such Trustees, all questions shall be determined by the Majority of the Trustees who shall be present, and such majority shall and may exercise all the powers and authorities given to the Trustees by this Act without the concurrence of the other or others of them.

121.
Commissioners to determine differences.

And be it Enacted, That if any dispute or difference shall arise between any parties interested, or claiming to be interested, in any land or river to be drained or improved in pursuance of this Act, touching and concerning any boundaries or any other rights and interests which the said parties or any of them shall have or claim to have in or over any such land or river, or touching any other matter relating thereto, it shall be lawful for the said Commissioners and they are hereby directed and required, as well by the examination of witnesses upon oath as upon other proper and sufficient evidence, to inquire, examine into, hear and determine the same, and such determination shall be binding and conclusive upon all parties concerned.

122.
Commissioners may have an assessor.

And be it Enacted, That upon any inquiry or proceeding to be had before said Commissioners, in pursuance of the provisions of this Act, it shall be lawful for the said Commissioners and they are hereby authorized and empowered, should they so think fit, to retain and appoint as their assessor any one of Her Majesty's counsel at law in Ireland to act with and assist the said Commissioners in adjudicating upon the matter of such inquiry or proceeding as aforesaid;

said; and it shall be lawful for the said Commissioners to defray the expenses of retaining or appointing such assessor out of the funds at their disposal under this Act.

123.
Persons summoned by Commissioners, and refusing to give evidence, to be punished.

And be it Enacted, That it shall be lawful for the said Commissioners, upon any inquiry or proceeding to be had before them under any of the provisions of this Act, to summon and examine upon oath or affirmation (which oath or affirmation the Commissioners are hereby empowered to administer) any person whomsoever; and if any person having been so summoned before the said Commissioners to give evidence touching any matter to be inquired into under this Act, and having been paid or tendered a sufficient sum of money, to be ascertained by the said Commissioners, to defray the charges of his attendance, shall not appear before the said Commissioners pursuant to such summons, without assigning some reasonable excuse for not appearing, or shall refuse to be sworn or to be examined and give evidence touching the premises, the said Commissioners, upon proof thereof upon oath, shall and they are hereby authorized, by warrant under their hands and seals, to direct any person whomsoever to cause any sum of money, not exceeding *Five Pounds*, to be levied by distress and sale of the goods and chattels of the person so neglecting or refusing to appear or to be sworn and give evidence, rendering the overplus (if any) upon demand to the person whose goods and chattels shall have been so distrained and sold, after deducting the costs and charges attending such distress and sale; and the monies so to be levied as aforesaid shall be considered as part of the monies directed to be raised for carrying this Act into execution, and shall be applied accordingly; and all persons who shall wilfully give false evidence or otherwise forswear themselves in any such examination, may be prosecuted for same, and upon conviction thereof shall be liable to the same pains and penalties as persons guilty of wilful and corrupt Perjury are now liable to by law.

24.
Power to assess costs.

And be it Enacted, That in case the said Commissioners shall, upon the hearing and determination of any claim or objection to be delivered to or made before them in pursuance of this Act, think proper to award any costs, it shall be lawful for them, upon request made for that purpose, to settle, assess, award and order such costs and charges as they shall think reasonable to be paid to the party, in whose favour any such determination shall have been made, by the other party; and in case the person who shall be liable to pay such costs or charges shall neglect or refuse to pay the same on demand, then and in every such case it shall be lawful for the said Commissioners and they are hereby authorized and required, by warrant under their hands and seals, directed to any person whomsoever, to cause such costs and charges to be levied by distress and sale of the

goods and chattels of the person so neglecting or refusing to pay the same, rendering the overplus (if any) on demand to the person whose goods and chattels shall have been so distrained and sold, after deducting thereout the costs and charges attendant on such distress and sale: Provided always, That in case the said person against whom the Commissioners shall have determined shall cause an action to be brought, pursuant to this Act, and proceed to trial, the execution of the warrant aforesaid shall be suspended until after the trial of such action: and in case such person shall upon the trial of such action establish the right against which the Commissioners shall have determined, such person shall not be liable to the payment of any such costs as last aforesaid.

125.
ADjoining
parties to try
their rights
by an issue at
law.

Provided always, and be it Enacted, That in case any person interested or claiming to be interested in any land to be included in any drainage or improvement to be effected in pursuance of this Act, shall be dissatisfied with any determination of the said Commissioners concerning any right or interest in, over or upon such land or any part thereof, made in the execution of this Act, or any injury or damage sustained by him, by reason of any thing done by the said Commissioners or by their authority, or in the prosecution of any of the said works, it shall be lawful for the person so dissatisfied to cause an action to be brought upon a feigned issue, against the person in whose favour any such determination has been made, within *Three* calendar Months after the determination of the said Commissioners shall have been notified in writing to the party against whom such determination shall be made, or to his attorney, or against any person by whom any such injury or damage may have been caused, within *Three* Months after such injury or damage shall have been sustained; and thereupon the person so dissatisfied shall proceed to a trial at law at the next assizes immediately following, to be held for the county where the land in respect to which such dispute may arise shall be situated; and after such action shall have been commenced, the defendant in such action shall and he is hereby required to name an attorney, who shall appear thereto, and accept of an issue or issues whereby such right or interest insisted on may be tried and determined (such issue or issues to be settled by the proper officer of the court in which such action shall be commenced, in case the parties shall differ about the same); and the verdict which shall be given in such action shall be final, binding and conclusive upon all persons whomsoever, unless the court wherein such action shall be brought shall set aside such verdict, and order a new trial to be had thereon, which it shall be lawful for the court to do; and that after such verdict shall be obtained, and not set aside by the court, the said Commissioners shall and they are hereby required to act in conformity thereto, and to allow or disallow the claim thereby determined according to the event of such trial: Provided always,

That

That it shall and may be lawful for the Assistant Barrister of the county in which such parties or either of them reside, with the assent of such parties, to try and finally determine such matters in difference between them on a civil bill to be preferred before him by either of said parties: Provided also, That if no such action at law be commenced, or no civil bill be brought, within Three calendar Months as aforesaid, or if any such action shall be commenced, and the plaintiff therein shall not proceed to trial within the time hereinbefore limited for that purpose, then the determination of the said Commissioners shall be binding and conclusive to all intents and purposes whatsoever: Provided also, That if any of the parties in any such action to be brought as aforesaid, shall die pending the same, such action shall not abate by reason thereof, but may be proceeded in as if no such death had happened: Provided also, That no difference or suit touching the matters aforesaid shall impede or delay the said Commissioners in the execution of the powers vested in them by this Act, but the drainage or improvement hereby authorized to be made, and all other matters and things to be done in pursuance of this Act, shall be proceeded in notwithstanding such differences or suits.

If an action, the Commissioner's determination to be final.

Death of parties not to stop proceedings at law.

Suits not to delay the drainage.

And be it Enacted, That if any of the parties interested in the said proposed works shall die before the same shall be completed, the powers and authorities vested in the said Commissioners shall not be thereby determined or suspended, but the said Commissioners shall proceed in the execution of such powers and authorities so vested in them in such manner as they might have done in case such parties had not died.

126.

Death of parties not to suspend the execution of this Act.

Provided always, and be it Enacted, That if any person, in whose favour a determination as aforesaid shall have been made, and against whom such action might have been brought if living, shall die before any such action shall have been brought, and before the expiration of the time hereinbefore limited for bringing such action, it shall be lawful for any person who might have brought such action against the person so dying to bring the same within the time so limited as aforesaid, against such person as if actually living, and to serve the said Commissioners with process for commencing such action, in the same manner as the party so dying might have been served therewith if living; and it shall thereupon be incumbent on the heir or other person who shall claim the benefit of such determination as aforesaid, to appear and defend such action in the name of the person so dead, and proceedings shall be had therein, in the same manner as if such person had been actually living, the rights of all parties shall be equally bound and concluded by the event of such action.

127.

How actions may be brought after the death of parties.

128.

Accounts to
be laid before
Parliament.

And be it Enacted, That the said Commissioners shall cause detailed accounts in writing of their proceedings under this Act, and of the several sums received by them as such Commissioners, and of the sums expended by them, and the mode of such expenditure, and of the several works made or in progress under this Act, to be made up to the *Thirty-first day of December* in each year; and such accounts shall be laid before both Houses of Parliament within *Thirty Days* thereafter, if Parliament be then sitting, or within *Thirty Days* after the First meeting of Parliament subsequent to the *Thirty-first day of December*; and the said Commissioners shall, as often as they shall be required so to do by the Commissioners of Her Majesty's Treasury, transmit to the said Commissioners of the Treasury like accounts, made up to such period, as the said Commissioners of the Treasury shall direct.

129.

Commissioners to make
bye-laws.

And be it Enacted, That it shall and may be lawful for the said Commissioners and they are hereby authorized and empowered from time to time to make such bye-laws, rules, orders and regulations, not being contrary to the laws now in force in Ireland, as to them shall seem meet and proper, according to the circumstances of every case, for better carrying into effect the purposes of this Act, or in any manner relating thereto, and from time to time to alter or repeal all or any of such bye-laws, rules, orders or regulations, and to make others, and to impose such fines and penalties, not exceeding the sum of *Five Pounds*, upon all persons offending against any of such bye-laws, rules, orders or regulations, as to the said Commissioners shall seem reasonable; and all such bye-laws, rules, orders and regulations shall be reduced into writing, and signed by the said Commissioners, or any Two or more of them; and a copy thereof, signed by the said Commissioners, shall be deposited with the Clerk of the Peace of every county in which any part of such district or river to which such bye-laws shall relate shall be situate, and the same shall be kept with the records of the county; and a printed or painted copy of each of the said bye-laws, rules, orders or regulations, as shall subject any person, not being an officer or servant of the said Commissioners, to any fine or penalty, shall be exhibited on boards at each toll-house, lock-house, and in every office used under such Commissioners for the purposes of this Act, and in such places as to the said Commissioners shall seem fit, and shall from time to time be renewed as often as the same or any part thereof shall be obliterated or destroyed; and such bye-laws, rules and orders shall be binding upon and shall be observed by all persons whomsoever, provided that all such bye-laws, rules, orders and regulations be approved of and confirmed by the Lord Lieutenant or other Chief Governor or Governors of Ireland in Council, by writing, under his or their hands.

Provided

Provided always, and be it Enacted, That in all cases of prosecution for any offence or offences against any of the bye-laws, rules, orders and regulations of the said Commissioners, the production of a book or document purporting to contain the bye-laws, rules, orders or regulations of the said Commissioners, and authenticated by the signatures of any Two or more of the said Commissioners, shall be evidence of the existence of such bye-laws, rules, orders or regulations: Provided always, That in every such prosecution it shall be proved that such printed or painted copy as aforesaid of such bye-laws, rules, orders or regulations was duly exhibited in manner hereinbefore directed.

130.
Copy of bye-laws to be evidence.

And be it Enacted, That if any person other than such persons as are authorized by virtue of this Act, shall at any time draw or open any of the cloughs, sluices or canals which shall be made under the authority of this Act, or shall wilfully or maliciously let off the water of any of the said reservoirs, rivers, canals or drains, every such person shall for every such offence, on being thereof convicted, on the oath of one or more credible witness or witnesses, before one of Her Majesty's Justices of the Peace acting in and for the county where the offence shall be committed, forfeit and pay any sum of money not exceeding the sum of *Twenty Pounds*, to be levied by distress and sale of the goods and chattels of such offender, by warrant under the hand and seal of the Justice before whom such conviction shall be had, which sum so forfeited shall be employed in and towards carrying on the works to be done and executed, maintained and supported, in pursuance of this Act; and for want of sufficient distress, such offender shall, by such Justice, be committed to prison for any time not exceeding *Six calendar Months*, unless he shall pay the said penalty and costs of conviction.

131.
Penalty for opening cloughs and letting off the water.

And be it Enacted, That all and every person or persons whomsoever, who shall at any time hereafter wilfully and maliciously cut, break down, destroy or damage any bank, dam, tunnel, sluice, engine, building, or any of the other works which shall be erected and made for the purposes of this Act, or any part thereof, shall be guilty of Felony, and, being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for the term of *Seven Years*, or to be imprisoned for any term not exceeding *Two Years*.

132.
Persons destroying works guilty of Felony.

And be it Enacted, That if any person shall throw or deposit any ballast, gravel or other matter or thing, so as to interrupt or obstruct the free passage of water through or the navigation of any of the rivers, streams, watercourses, or any of the cuts, sluices or canals which shall have been improved by the said Commissioners under this Act, or shall, without the consent of the said Commissioners, lay any ballast, gravel, stones, dirt, rubbish, lime, timbers or clay on any of the banks,

133.
Penalty on persons depositing gravel, &c. so as to obstruct the navigation or free passage of water in the rivers, &c. improved under this Act.

locks or trackways of any of the rivers, drains, canals or side cuts aforesaid, or if any person shall maliciously open any lock, sluice, dam, gate or watercourse belonging to the said navigation or drainage, or shall so leave any of the same open after any boat has passed, or otherwise maliciously mis-spent or waste the water of the said navigation, or shall raise any wall, building or other obstruction in said drains, canals, rivers or streams, without the consent in writing of the Commissioners, such person being convicted of any of the offences aforesaid, before any Justice or Justices of the Peace of the county where such offence shall be committed, or of any adjoining county, by the oath of one or more credible witness or witnesses, shall be fined by such Justice or Justices a sum not exceeding *Ten Pounds*, to be levied in such manner as is hereinafter directed with respect to the levying any fine imposed by any Justice or Justices.

134.
Penalty on
persons
assaulting
Commission-
ers and others
engaged on
the works.

And be it Enacted, That if any person or persons shall wilfully prevent or assault any of the Commissioners for the execution of this Act, or any engineer or other officer, servant or workman acting in aid or under the orders of any such Commissioners in the execution of any of the powers given by this Act, or shall wilfully destroy or injure any of the instruments, tools or implements or materials kept or used by the said Commissioners or any of them, or by any person or persons employed by them or any of them, for or in the execution, maintenance or repairs of any of the works under this Act, any person so offending shall forfeit and pay for every such offence, upon conviction thereof, by the oaths of one or more credible witness or witnesses, before any Justice of the Peace, such sum, not exceeding *Five Pounds*, as such Justice shall think fit.

135.
Proceedings
by summons
for the recovery of penalties.

And be it Enacted, That in all cases in which by this Act any penalty or forfeiture is made recoverable by information before a Justice of the Peace, it shall be lawful for the Justice of the Peace to whom complaint shall be made of any offence against this Act to summon the party complained against before him, and on such summons to hear and determine the matter of such complaint, and on proof or admission of the offence to commit the offender and adjudge him to pay the penalty or forfeiture incurred, and to proceed to recover the same, although no information in writing shall have been exhibited or taken by or before such Justice; and all such proceedings by summons, without information in writing, shall be as good, valid and effectual to all intents and purposes as if an information in writing had been exhibited.

136.
Form of conviction.

And be it Enacted, That any Justice of the Peace before whom any person shall be convicted of any offence against this Act shall and may

may cause the conviction to be drawn up in the following form of words, or in words to the same effect :

to wit. } " BE it Remembered, That on the
day of A. B. is convicted before Her
Majesty's Justices or Justice of the Peace for the county of
by virtue of the Act passed in the
year of Her Majesty Queen VICTORIA, intituled
[here insert the Title of this Act, specifying the offence and
the time and place when and where the same was committed,
as the case shall be], and we do adjudge that the said A. B.
shall for the said offence
Given under our hands and seals [or, my hand and seal],
the day and year aforesaid."

And be it Enacted, That all penalties and forfeitures inflicted or
imposed by this Act, or incurred under the provisions or directions
thereof, and all sums payable for compensation or damage, the manner
of levying and recovering whereof is not hereinbefore otherwise particu-
larly directed, may be recovered in a summary way by the order and
adjudication of some Justice of the Peace of the county in which such
offence shall have been committed, on complaint to him for that pur-
pose exhibited, by the oath or affirmation of any person, or on the
confession of the party offending, which oath or affirmation such
Justice is hereby authorized to administer ; and in default of payment
of such penalties or forfeitures, or sums for compensation or damage,
the same shall be levied by distress and sale of the goods and
chattels of the party making such default, by warrant under the hand
and seal of such Justice, rendering the overplus (if any) on demand to
the party whose goods and chattels shall be so distrained, the reason-
able charges of such distress and sale being deducted ; and in case
such penalties or forfeitures shall not be forthwith paid off, it shall be
lawful for such Justice and he is hereby authorized and required to
order the offender so convicted to be detained and kept in safe custody
until return can be conveniently made of such warrant of distress,
unless the offender can give sufficient security, to the satisfaction of
such Justice, for his appearance before such Justice, or before some other
Justice of the Peace for the county where such offence shall have been
committed as aforesaid, on such day or days as shall be appointed for
the return of the warrant or warrants of distress, such day or days not
being more than *Eight Days* from the taking any such security,
and which security any Justice is hereby empowered to take by way of
recognizance or otherwise ; but if, upon the return of such warrant, it
shall appear that no sufficient distress can be had whereupon to levy
the penalty and such costs as aforesaid, and the same shall not be
forthwith paid, or in case it shall appear to the satisfaction of such
Justice, upon the confession of the offender or otherwise, that he has

137.
Recovery and
application of
penalties.

no sufficient goods and chattels whereupon such penalty, forfeitures, costs and expenses could be levied (if a warrant of distress should be issued), such Justice shall not be required to issue such warrant of distress; and thereupon it shall be lawful for such Justice, and he is hereby authorized and required, by warrant under his hand and seal, to commit such offender to any common gaol or house of correction, there to remain for any time not exceeding *Three* calendar Months, unless such penalties or forfeitures, and all costs and charges attending such proceedings as aforesaid, to be ascertained by such Justice, shall be sooner paid and satisfied, or shall otherwise be discharged by due course of law; and such penalties and forfeitures, when received, shall be paid to the Commissioners or Trustees aforesaid.

138.
Proceedings
not to be
quashed for
want of form.

And be it Enacted, That any orders, convictions or other proceedings to be had or made by or before any Justice of the Peace by virtue of the powers granted by this Act, or any orders or proceedings to be had or made by, before or on behalf of the said Commissioners, or in case of appeal by or before the Assistant Barrister, shall not be quashed or vacated for want of form only.

139.
No action to
be brought
against person
acting in exe-
cution of this
Act, until
after notice
has been
given, spec-
ifying the
cause of
action.

And be it further Enacted, That no action, suit or information shall be brought, commenced or prosecuted by any person for any thing done in pursuance of this Act, or in execution of the powers or authority herein contained, unless notice in writing of such action, suit or information, specifying the ground or cause thereof, and signed by the attorney for the plaintiff, shall be given to the said Commissioners or Trustees or persons against whom proceedings are intended to be commenced, at least *Twenty-one* Days before such action, suit or information shall be commenced.

140.
No action to
be brought
after tender
of sufficient
amends;
if no tender
made, money
may be paid
into Court by
leave, before
issue joined.

And be it Enacted, That no plaintiff shall recover in any action to be brought against any Commissioners or Trustees, or any other person, for any thing done in execution of the powers vested in them or him under this Act, if tender of sufficient amends shall be made by or on behalf of the Commissioners, Trustees or person before such action is brought; and in case no tender shall have been made, it shall be lawful for the defendant in any action, by leave of the court in which such action shall depend, at any time before issue joined, to pay into court such sum of money as they or he shall think fit, whereupon such proceedings, order and adjudication shall be had and given in and by such court as in actions where the defendant is allowed to pay money into the court.

141.
Appeal to
quarter ses-
sions where
parties think
themselves
aggrieved.

And be it Enacted, That it shall be lawful for all persons who shall think themselves aggrieved by any thing done by virtue of this Act, except in cases hereinbefore provided for, to appeal to the Assistant

Assistant Barrister at the general quarter sessions of the peace which shall be held in and for the county wherein the matter of complaint may arise, or any adjournment thereof, within *Six* calendar Months next after the cause of complaint shall have arisen, first giving or causing to be given *Twenty-eight Days'* notice thereof, in writing, to the Commissioners or Trustees, or one of them, and to the parties intended to be appealed against; and the Assistant Barrister at the said quarter sessions, or any adjournment thereof, is hereby authorized and required to hear and determine the matter of such appeal, and to make such order respecting same, and to award such costs as to him in his discretion shall seem meet, and by his warrant to levy the costs awarded, by distress and sale of the goods and chattels of the parties respectively adjudged to pay the same, and rendering the overplus (if any) to the respective owners of such goods and chattels, after deducting the reasonable charges of such distress and sale; and every such determination of the said Assistant Barrister shall be final and conclusive on all the parties concerned, and no such complaint, appeal or proceeding shall be removed or removable by certiorari or any other writ or proceeding whatsoever into any of Her Majesty's Courts of Record in Dublin or elsewhere; but in case such appeal shall appear to the said Assistant Barrister to be frivolous, vexatious or without foundation, then the said Assistant Barrister shall award such costs to be paid by the appellant or appellants as to him in his discretion shall seem reasonable, and to be levied in manner aforesaid.

And be it Enacted, That nothing herein contained shall be construed to render the said Commissioners or Trustees respectively liable for any consequential damages which may happen to any land or other property through or by the accidental overflowing of any river, stream or watercourse, or by the sudden breaking of any bank, dam or sluice whatsoever, which, under the provisions of this Act, said Commissioners or Trustees may take upon them the duty of regulating or maintaining: Provided, nevertheless, That if the owner or occupier of such land shall have given notice in writing to the said Commissioners, or to one of such Trustees, warning them or him of the probability of such damage, or the weakness and deficiency of any such bank, dam or sluice, and requiring them or him to strengthen, amend and repair the same, and the said Commissioners or Trustees (as the case may be) shall not within *Seven Days* next after the delivery of such notice, take proper precautions to prevent the same, then in such case the amount of all consequential damages which shall happen through neglect thereof shall be made good out of the rates to be levied by the said Commissioners or Trustees under this Act.

142.
Commissioners not liable for damage arising to lands, &c. from insufficiency of embankments, &c., unless notice previously given.

143.
Not to affect
the powers of
the Shannon
Commissioners.

AND whereas by an Act passed in the second and third years of the reign of Her present Majesty Queen VICTORIA, intituled, "An Act for the Improvement of the Navigation of the River Shannon," it was enacted, that the care and conservancy of the said River Shannon, and of the rivers which flow into the same, should be vested in the Commissioners appointed under said Act for the purposes therein mentioned, with full power to them to prevent any dams, weirs or obstructions from being placed therein, and to widen, deepen, cleanse, clear, scour, open or straighten and remove all obstructions in said rivers for the purposes in said Act mentioned; BE it therefore Enacted, That nothing in this Act contained shall affect the powers vested in the Commissioners appointed under an Act passed in the second and third years of the reign of Her present Majesty, intituled, "An Act for the Improvement of the Navigation of the River Shannon."

144
Shannon
Commissioners, or
such persons
as the Lords
Commissioners
shall appoint, to be
Commissioners for
this Act.

And be it Enacted, That any memorial hereinbefore directed to be presented to the said Commissioners of Public Works in Ireland, and all the powers and authorities hereinbefore vested in and exercised by them, shall and may be respectively presented to and exercisable by the said Commissioners of Public Works, and the Commissioners appointed under the said Act for the improvement of the said River Shannon, or such persons as the Lords Commissioners of Her Majesty's Treasury shall appoint, if and so long as such Lords Commissioners shall so direct; and all acts, matters and things, powers and authorities which the said Commissioners are by this Act authorized to do or exercise, may be done or exercised by any Two or more of the Commissioners aforesaid.

145.
This Act not
to repeal or
alter the Act
1 & 2 Will. 4,
c. 57, s. 13.

Provided always, and be it Enacted, That nothing herein contained shall be deemed or construed to repeal or alter the said recited Act of the first and second years of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act to empower Landed Proprietors in Ireland to widen, embank and remove Obstructions in Rivers," or any of the powers and provisions therein contained, but that the same shall be and remain in force to all intents and purposes as if this Act had not been passed.

146.
Meeting of
landholders
to be convened
to appoint a
valuator in
certain cases;
1 & 2 Will. 4,
c. 57, s. 13.

And be it Enacted, That where any meeting of owners or occupiers has been heretofore summoned under the said last-recited Act by the Chief or Under Secretary of the Lord Lieutenant or other Chief Governor or Governors of Ireland, for the purpose of appointing a person to act on behalf of such owners and occupiers in making a survey and valuation pursuant to said recited Act, and such meeting has refused, neglected or omitted to nominate and appoint a person for such purpose,

purpose, it shall and may be lawful for such Chief or Under Secretary for the time being to summon another meeting of owners and occupiers for the like purpose, and notice thereof shall be published and given as in said recited Act directed; and any person nominated and appointed by such meeting shall be invested with all such powers, and may do all such acts as if such person had been nominated and appointed under and by virtue of said recited Act; and if any person so nominated and appointed by any such meeting or otherwise on the part of such owners or occupiers under this or the said recited Act shall die, or shall become incapable of acting in discharge of the several duties prescribed for such person by such recited Act, then it shall and may be lawful for such Chief or Under Secretary for the time being to summon a meeting of owners and occupiers in like manner as in the said recited Act pointed out for the purpose of nominating and appointing another person in the place and stead of such person so dying or becoming incapable of acting as aforesaid; and such notice shall be published and given in manner pointed out by said recited Act; and such person so appointed shall be competent to do all the acts and be thereby invested with all the powers prescribed and conferred by the said recited Act to and upon persons nominated and appointed to make such survey and valuation as aforesaid.

And be it further Enacted, That it shall and may be lawful for any engineer appointed for the purpose of making a survey or surveys preliminary to the making of any application for a commission under said recited Act, and for his servants and attendants, and he and they shall for such purpose have power and are hereby authorized to enter in and upon the grounds and lands of all persons whatsoever: Provided nevertheless, That he or they, or some one of them, shall make reasonable compensation to the occupier or occupiers of such lands respectively, for any damage or injury which may be sustained by him, her or them, by reason of the said engineer or his servants or attendants entering thereupon; and it shall and may be lawful for the Justices presiding at the nearest petty sessions, upon their summons, without information, to hear and determine all applications and complaints in reference to such damage and injury, and for that purpose to examine upon oath the parties or either of them, or such witnesses as they or either of them shall produce, which oath the said Justices are hereby empowered to administer, and to dismiss said complaint, or make such order for payment of such sum to such complainant or complainants by said party or parties so summoned, as to them shall seem just and reasonable as and for such compensation, and as to the costs of such inquiry to be paid by the party against whom such order shall be made, and the same shall be recovered and levied as any penalty under this Act may be recovered and levied as aforesaid.

147.
Power to
make surveys
preliminary to
applying for
a commission
under
1 & 2 Will. 4,
c. 27.

Justices to
award com-
pensation for
damage.

148.
Provision for
taxation of
costs.

And be it Enacted, That in case any solicitor or attorney shall be employed to perform any business for any of the purposes of this Act, it shall be lawful for any person who shall be chargeable with any portion of the costs of performing any such business, to apply to the Court of Chancery or the Court of Exchequer for taxation of such costs and charges, although no part thereof shall be incurred for any business done in any court; and it shall be lawful for such Court of Chancery or Exchequer to direct a taxation of such costs and charges by a Master of the Court of Chancery, or the Second Remembrancer of the Court of Exchequer, upon the undertaking of such person to pay his proportion of the amount of such costs when taxed, and upon such other terms (if any) as to such Court shall seem fit, and such costs shall be taxed accordingly; and such attorney or solicitor shall have such and the like remedies against all parties chargeable with such costs as in the case of costs incurred for business done in such Court respectively, and taxed, ascertained and certified in pursuance of the order of such Court respectively.

149.
Definition of
terms in this
Act.

And be it Enacted, That in the construction of this Act (except where the nature of the provision or the context of the Act shall exclude such construction), the word "Land" shall extend to all waste uncultivated land, whether bog land, land periodically flooded or covered with water, or otherwise wholly or partially unproductive, and shall also extend to messuages, tenements, mills, weirs and other hereditaments corporeal or incorporeal, and any estate or interest therein, and any undivided part thereof, and any charge or incumbrance thereon; and the word "River" shall extend to all rivers, lakes, canals, streams and estuaries; and the words "Person or Persons," and the words "Proprietor or Proprietors," shall extend to all bodies politic, corporate or collegiate, and also all bishops, parsons and other ecclesiastical persons, as to lands held by them in those respective characters, and to any number of persons associated together as a company or partnership; and the word "Counties" shall extend and be applied to all counties, counties of cities and counties of towns; and every word importing the singular number only, shall extend and be applied to several persons or things as well as one person or thing; and every word importing the plural number shall extend and be applied to one person or thing as well as several persons or things; and every word importing the masculine gender only, shall extend and be applied to a female as well as a male.

150.
Act may be
altered.

And be it Enacted, That this Act shall be a Public Act, and may be amended or repealed by any Act to be passed in the present Session of Parliament.

SCHEDULE

SCHEDULE

TO WHICH THIS ACT REFERS.

BY the Justices and Associate Cess-payers at the Presentment Session held
 at _____ in the county of _____
 on _____ for the barony (or half barony) of [here state the
 name of the barony for which the Presentment Sessions are held].

WE present that we approve of the works proposed to be made for improving the navigation of [state the river, &c.] and described in the report, schedules, maps, plans and estimate deposited with the Clerk of the Peace of the county of _____ by the Commissioners for carrying into effect an Act passed in the fourth year of the reign of Her present Majesty, intituled, [here state the title of this Act], and laid before us; and we further present and consent that the proportion of the costs of so much of the said works as shall relate to such navigation which shall be assessed upon the barony (or half barony) of _____ or any townland or townlands thereof, under the provisions of the said Act, shall be raised off the said barony (or half barony) or townland or townlands respectively; and we present the sum of Sixpence towards part payment of the same.

Signed on behalf of the said Presentment Session.

A. B.

Chairman of the said Presentment Session.

Drainage of Lands.

(Ireland.)

A

B I L L

To promote the Drainage of Lands, and
Improvement of Navigation and Water-
power in connexion with such Drainage,
in Ireland.

*(Prepared and brought in by
Lord Viscount Morpeth, Mr. Attorney-General
for Ireland, Mr. Lyach, and Mr. Mac
O'Ferrall.)*

*Ordered, by The House of Commons, to be Printed,
2 March 1841.*

[Price 9d.]

94-

Under 12 oz.